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ABSTRACT

This report evaluates the first 2 years of the Children's Hearings Project (CHP) which mediates in family conflicts involving rebellious and truant adolescents in Massachusetts. The report is divided into 11 chapters. Following an introductory chapter, chapter 2 describes staff, procedures, and mediator selection and training. Chapter 3 presents demographic information of the families who came to the CHP. It contrasts the families in mediation with those who are not. Chapter 4 describes the legal process called Children in Need of Services, and the typical approaches and strategies judges use in handling these cases. Chapter 5 describes the mediation process, and Chapter 6 outlines the issues in mediation and compares the process to court and counseling. Chapter 7 presents the families' view of mediation: their estimates of its effectiveness and its impact on communication and family functioning. Chapter 8 describes the characteristics of the mediators, their motivations, their perceptions of the families, and their understanding of the process. Chapter 9 compares the process by which the court and the CHP handle these cases and assesses mediation's impact on court caseloads. Chapter 10 compares the CHP with the role and work of the Children's Panels in Scotland. Chapter 11 summarizes the report and points out the implications for juvenile justice, social welfare policy, and the theory of mediation. A 22-item bibliography and 93 statistical tables are included. (KH)

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MEDIATION IN FAMILIES:

A Study of the Children's Hearings Project

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MEDIATION IN FAMILIES

A STUDY OF THE CHILDREN'S HEARINGS PROJECT

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CHAPTER 1

INTRODUCTION

In 1980, the Children's Hearings Project (CHP) opened its doors in a novel social experiment: the use of mediation in family conflicts involving rebellious and truant adolescents. Adolescents who get into trouble because they fail to attend school, disobey their parents, or run away from home are labeled status offenders by the legal system. Beyond their failure to attend school, they are not violating laws and their behavior would not be considered criminal if carried out by an adult. Yet, they can end up in the courts if their parents, the school, or the police accuse them of truant or rebellious behavior. How to handle these teenagers, who are not criminals yet are often viewed as pre-delinquents, has long been a thorny problem for the courts.

The novelty of the Children's Hearings Project, located in Cambridge, Massachusetts is its use of mediation between parents

and children. In the mediation process, parents and children negotiate their differences with the assistance of trained community volunteers. They seek to produce a written contract governing the family's future relations. From the families' perspective, this was often a very helpful experience. Most of the families were very enthusiastic about the process, and in many families it succeeded in improving communication, decreasing fighting, and strengthening family relationships. Despite the hopes of the program founders, however, mediation did not replace the court because the cases were not automatically dismissed at referral or when an agreement was reached. Nevertheless, by 1983 the Massachusetts Department of Social Services was so impressed by the potential of mediation for status offenders that the Children's Hearings Project model was implemented state-wide. This report describes the findings of an extensive study of the first 1 1/2 years of this program.

STATUS OFFENDERS: A SOCIAL PROBLEM OR A LEGAL PROBLEM?

Historically, rebellious but non-criminal youths were considered to be on the path to adult criminality, deserving of regular criminal treatment. More recently, this behavior has been redefined as a social problem rather than a legal one. We now think that it is rooted in disrupted families and communities

and is not necessarily the beginning of the slide into crime. Treatment has shifted to the social welfare office rather than the court and the jail. Yet, remnants of legal control remain. Children are sometimes required by the court to participate in social services, but because of the social welfare model, are denied the full protection of due process. Status offenders are still caught in an ambiguous position, halfway between the domain of the law and the domain of social welfare.

Eighty years ago, with the establishment of a juvenile court in Illinois, the court first assumed its role as parens patriae for children needing protection, committing crimes, or showing ungovernable behavior. At this point, juvenile criminals were defined differently from adult criminals. Yet, despite legal distinctions, incorrigible acts were often treated in the same way as crimes. Truants, runaways, stubborn children, and youth who violated school regulations found themselves held in the same detention centers, tried in the same courts, and committed to the same institutions as juvenile delinquents. Although the juvenile court began as a benevolent reform, over the years people questioned its authority to handle status offenders. According to the Juvenile Justice Standards Project of the Institute of Judicial Administration and the American Bar Association:

> "The juvenile court's jurisdiction over unruly children is bottomed on assumptions -- most often implicit -- that parents are reasonable persons seeking proper ends, that youthful independence is malign, that the social good requires judicial powers to backstop parental command, that the juvenile justice system can identify noncriminal

> misbehavior that is predictive of future criminality, and that its coercive intervention will effectively remedy family-based problems and deter further offense (1977:3)."

Yet, as the Standards Project and many others point out, there is little proof that incorrigibility leads to criminal behavior. In fact, they argue, more proof exists that truancy, stubbornness, or running away from home is a transient behavior likely to disappear in time. Further, they state that noncriminal misbehavior is rooted in complex family problems rather than the personal willfulness of a child. Nevertheless, the child is brought to court in the equivalent role of a defendant, usually in an opposing position with his/her parents. The child's behavior is the sole focus of an adversarial proceeding, and he/she is the only subject of a court judgment. Despite the potential consequences to the child -- the most drastic being the loss of freedom -- he/she often plays a very minor role in the proceedings. The problem is:

> "not that the child is entitled to have the last word or to control exclusively the judicial determination, only that the child's views have an opportunity for expression. If, as has been asserted, status offenders are the victims of parental or societal failures, the child's own attitude toward remedial correction is most pertinent (Ketcham 1979: 22)."

The child becomes engaged in a process that is a strange mix of legal procedure and social work. The court decides, in effect, whether a child is uncontrollable; if so, then he/she is determined to need services. The court identifies the specific means needed to achieve "socialization", then imposes the means,

for all practical purposes, as if they were a sentence. The services, presumably, can redeem the wayward child or protect him/her from bad influences (see Fisher 1979-80).

On the one hand, this role of the court of imposing services is criticized on philosophical grounds -- e.g., the court is not the proper forum to conduct social work and its jurisdiction artificially narrows the response of actual social workers to the child and only the child. On the other hand, the role is defended with the argument that the court's authority, more than any other factor, guarantees the delivery of needed services to the child. This complicated debate is far from resolved. Perhaps it is best summarized by Judge Orman Ketcham, long an advocate for removing status offenders from the jurisdiction of the juvenile court:

> "One of the major issues of this decade will be whether the juvenile justice system should be controlled by law and legal concepts, by behavioral science and social principles, or by the citizen-public in accord with principles of common sense and instinct (1978: 33)."

Although the goal of court intervention is to protect the child, recent concern focuses on how harmful these interventions can be for the child and family, and on how often the most intrusive measures of care, i.e., placement and removal of children from parental custody, are imposed.

While the debate continues, important changes are occurring in the disposition and care of status offenders. For example, almost all states participated in the Juvenile Justice

and Delinquency Prevention Act (JJDPA) -- landmark federal legislation passed in 1974. The states used funds to meet the special purposes of the Act, including the separation of status offenders from delinquents in certain residential settings, and the prohibition of secure detention or secure placement for youth whose behavior would not be a crime if it were committed by an adult. These reforms removed status offenders yet further from the category of criminals.

Reform in Massachusetts

Massachusetts was at the forefront of reform efforts for status offenders, particularly deinstitutionalization. Between 1970 and 1973, Massachusetts closed its reform schools for youths, opened in 1848. In one single, wrenching effort, the state deinstitutionalized delinquents and status offenders alike. In 1973, by the time most of the juvenile institutions were closed, the state legislature passed a law which "decriminalized" running away from home, incorrigibility, truancy, and willful violation of school precepts. In its place it created a category called Children in Need of Services (CHINS), and ordered proceedings to be held in separate sessions at district and juvenile courts. Parents, legal guardians, or police officers could file requests for the court to determine whether a runaway or stubborn child needed services. The same procedure could be

followed by school officials for alleged truancy and other school offenses. The new law transferred responsibility for CHINS from the state's youth correctional agency -- the Department of Youth Services -- to the state's social service agency -- the Department of Public Welfare. Subsequently, the newly created Department of Social Services assumed responsibility for CHINS youths.

Overall, the new law brought signal reforms, but for many observers it still represented a compromise. Status offenses were decriminalized; yet, they were still handled by the juvenile court. The correctional focus was blurred; nevertheless, an arm of the court -- probation -- still disposed of an overwhelming majority of cases. The role of social service agencies was sharpened, but their actions were more often a response to rather than a substitute for court. Although social workers are now available to provide social services, including shelter care, at any time during the court proceeding, in most courts social workers are used only sporadically -- typically for placements outside the home. As a result, even though an estimated 6,500 status offenders passed through the Massachusetts courts from July 1, 1977 to June 30, 1978, only 43% (2,775) of the cases eventually became responsibilities of the social service office. It is parents who now constitute the major group of petitioners to the court. Yet, the statute allows tremendous discretion to divert CHINS cases before they are adjudicated by the court. Probation officers play the key role -- police and clerks tend

not to get involved, and schools are said to "dump truants into the courts" (Abt Associates 1978: 25).

Thus, status offender cases not only put an increased burden on the courts, but present critical issues concerning how many of these cases belong before the court and how else these families might be better served.

MEDIATION: A FORM OF DECRIMINALIZATION

The Children's Hearings Project offers a non-legal, consensual process for handling the family conflicts surrounding rebellious adolescents. It moves the treatment of status offenders further along the path from legal to social approaches, but does so without the vestiges of legal control. Families are told that their participation is voluntary, and almost all understand that there is no legal pressure from the court to try mediation. In the mediation process, two volunteers listen while both sides present their stories, then encourage them to move toward some common agreement. The Massachusetts Advocacy Center, the sponsor of the Children's Hearings Project (hereafter the CHP), had supported the decriminalization statute in Massachusetts in the early 1970's. After several years of watching the changes this brought, the Center had serious concerns that the treatment of youngsters under the new system

often appeared no different than a delinquency proceeding and that in fact these children had lost some of their due process rights. Sponsorship of the mediation program demonstrated the Center's interest in introducing and exploring the advantages of a very different, non-court model.

The mediation process seemed a fruitful alternative on the basis of its rapid expansion in other court matters as a way of dealing with a variety of minor interpersonal and property disputes during the 1970s and 1980s. Dispute resolution programs using mediation, conciliation, and arbitration endeavor to provide more effective and enduring remedies for individuals involved in disputes with others and with whom they have ongoing personal relationships. Their purpose is to discover the underlying issues in a dispute and explore ways of reaching some agreement about them. The disputants themselves define the problems and forge the agreement. Dispute resolution methods have been applied to a wide range of civil and criminal matters, including misdemeanor and felony complaints, small claims, landlord/tenant, domestic and neighborhood disputes. These programs typically emphasize community involvement and train communty volunteers to serve as third parties.

However, alternative dispute resolution techniques have rarely been applied in juvenile matters. The few programs specializing in children's cases focus almost exclusively on minor delinquencies, usually where the disputants are the juvenile offender and the victim. The CHP and a similar program

in New York City were the first to use dispute resolution techniques in parent/child conflict (see Block and Kreger 1982). Yet, in Scotland, a similar participatory, citizen program for juvenile cases has been in effect since the beginning of the 1970s. The planners of the Children's Hearings Project turned to the Scottish Children's Hearings System for the model of an informal juvenile justice program which completely replaced the court. In a sweeping reform, Scotland replaced its juvenile courts with panels of volunteers who meet with youthful offenders, their parents, social workers, and school representatives to determine which solution is in the best interest of the child and the community. This system, often referred to as the Children's Panels, encourages participation by family members in settings less formal than court and recognizes the positive role volunteers can assume in responding to the needs of troubled youths and families.

Established in the late 1960's, the Scottish Children's Hearings System recognizes that courts are inappropriate and ineffective in determining what is in the best interests of the child. Although significant aspects of the panel system could not be replicated by the CHP staff, notably the requirement that families attend the sessions and the dispositional powers of the panel members, the Scottish experience showed that an alternative non-court mechanism could be developed and could meet the needs of troubled youth and families.

Yet, many experts in the mediation field questioned the justice and efficacy of using mediation for status offenders. They asked, for example,

* Can mediation avoid replicating the existing power differentials between parents and children?

* Can children articulate their interests in informal settings dominated by adults without an advocate or legal representative?

* Can a short-term process such as a two-to four-hour mediation session have any impact on long-entrenched patterns of conflict?

* Can community volunteers handle the complex, emotional issues involved in family conflict involving status offender youths?

* Can an informal, participatory process lead to improved communication and to a reframing of the youth's difficult behavior as a family problem rather than an individual failure?

One of the major goals of this research study was to address these questions. The data show that, to a large extent, the CHP was able to provide a process which succeeded in overcoming these pitfalls and problems.

THE RESEARCH STUDY

This report presents the findings of a two-year study of the Children's Hearings Project. The study focused on the

families of 51 young people who went through mediation. It encompasses their experiences in court and mediation as well as their perceptions one and eight months following the mediation sessions. In addition, it describes the ways similar cases are handled in court, the characteristics of these families in comparison with those who chose not to mediate and those who are not referred, and the views of the mediators and court and school personnel about the mediation process.

This study is in many ways a cooperative effort. The formulation of the goals of the research, its overall design, and the construction of the research instruments were carried out by the collaboration of the researcher, the research supervisor, the Director of the CHP, and the then Deputy Director of the Massachusetts Advocacy Center. The researcher and the research supervisor worked together to design the details of the study and the final version of the research instruments. The data collection, data coding, and data analysis were done by the researcher and the analysis and tabulation of statistical materials were done by both the researcher and the research supervisor. The researcher had her office in the CHP office and had daily contact with the staff and mediators as well as with court personnel and judges. As an example of action research, this format enriched both the research and the program. The research supervisor was located at a nearby college and made periodic visits to the program and met regularly with the researcher to monitor the progress of the study.

The Research Population

All family members who agreed to participate in the Children's Hearings Project were also asked to participate in the CHP research. Over the 18 months of data collection (November, 1981 - April, 1983), this method yielded cases involving 51 children in 48 families, mostly from Cambridge and Somerville courts and a few families from the Malden court.* Fortunately, only four families refused to participate in the research component of CHP. It should also be noted that 5 families who participated in CHP were excluded from the research since their mediation sessions had to be conducted in either Portuguese or Spanish.

Besides wanting to learn about the backgrounds and experiences of these families in court and mediation, there was also an interest in learning how these families compared to those who were never referred to the CHP and to those who were referred but did not end up participating in a mediation session. A true experimental outcome evaluation could not be implemented since random assignment was not possible. However, background data and information surrounding the status offense and its circumstances were collected for 50 cases in each of the two groups, the court group and the non-mediated group.

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* For purposes of statistical analysis, this data will be treated as if it represents 51 families, since it does refer to 51 separate parent/child situations.

The first group of 50 was selected by random sampling of those Cambridge and Somerville court cases not referred to the CHP. Since 43% of the cases which were handled by these two courts during the research period were referred, according to our observations, the court sample describes not the total universe of court-handled CHINS cases but the half which were not referred. This was ideal for our research purposes since there was also an interest in learning about the decision to refer. The second sample of 50 cases was extracted from those CHP cases that were referred to the CHP but for one reason or another did not participate in a mediation session. This sample will hereafter be referred to as the "non-mediated" sample.

Data Collection Methods

This research study incorporated both quantitative and qualitative methods. The quantitative methods included extracting data from program and court files and surveys of the mediators. The qualitative methods included in-depth interviews of family members, mediators, social workers, and school and court personnel plus observation of mediation and court sessions. These complementary research methods improve validity since data collected by one method can be verified and explained by data collected by another method.

It should be noted that in addition to the six methods outlined below, the researcher informally absorbed a great deal of information because she was located in the CHP office. She gained insights into the process of selecting, training, and using mediators, as well as information about the staff, the clients, the courts, the social service network, and the CHP expansion to other communities. As mentioned previously, this research is an example of action research. The researcher provided input into program development, mostly during the first year of the research. Her role as a participant observer in the program proved to be an asset in the analysis of the data since it helped to develop a total picture of the Children's Hearings Project.

1. Observations of Mediation Sessions

All mediation sessions, including second and third sessions of a single case, were observed for the 51 families in the study. During the few times when the researcher was unable to be present, the research supervisor was able to fill in. The researcher remained as unobtrusive as possible, sitting to the side of the mediation table to avoid directly facing either the family or the mediators. The researcher did not speak during the sessions and refrained from any visual reactions to the proceedings. Family members were introduced to the researcher before the mediation.

During the mediation, the researcher took notes on the proceedings, concentrating mainly on the types of issues discussed, if and how they were resolved, the amount of participation and the mood of the family members and the mediators' styles of mediation. Because the mediation lasted from two to five hours, these notes ran from 10 to 20 typed pages. After the mediation, the researcher read over the transcript, filled in any gaps, wrote a one-page summary of the session, and filled out a qualitative observation schedule designed to focus on important aspects of the mediation.

2. Observations of CHINS Court Sessions

Nearly all of the CHINS court proceedings were observed in both the Cambridge and Somerville District Courts. Observation from the back of the courtroom and note-taking were allowed during the proceedings. Again the observer attempted to remain as unobtrusive as possible. Notes were taken on all CHINS cases, even those never referred to CHP. The transcripts focused on the issues discussed as well as the advice, solutions and decisions imposed by the judges.

3. One-month Follow-up Interviews with Family Members

The families' assessment of the mediation experience and its impact on them is based on in-depth interviews conducted with all family members about one month after the mediation session. The researcher interviewed 49 children, 48 mothers, and 17 fathers, each in separate interviews.* The interview was conducted in person at the convenience of each family member. Most interviews took place during the day in the person's home, but some were in the evening and others were conducted in various places including the school, the parents' place of employment, coffee shops and ice cream parlors. Family members were assured that the interviews were confidential and that no information would be shared with CHP staff, court personnel, or other family members.

The interviews lasted between 45 minutes and one and a half hours. The interview schedule included 60 questions, and differed only slightly between parents and children. The questions were designed to determine how the person understood the process and the extent to which he or she viewed it as distinct from the court. They probed family members' assessments of the impact of mediation on family relationships and conflict and investigated their views of the overall utility of the process. Several questions invited the respondent to compare mediation to the court. While there were some closed-ended

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* The number of children interviewed was 49 and not 51 because one case involved a mother in dispute with the school over her eight-year old's truancy and in another case the child was placed in a mental health setting where an interview was not possible.

questions, most were open-ended to allow for a richer exploration of circumstances and opinions.

4. Later Follow-up Interviews with Family Members

As many family members as possible were interviewed again six to eight months after the initial interview. The number interviewed was far smaller since many had moved and could not be located. In a few cases, people were not interested in being interviewed again. Furthermore, seven to eight months had not elapsed after the mediation session for a number of the families by the end of the data collection period. Thus, 18 children, 20 mothers and 6 fathers were interviewed a second time.

Interviews were conducted over the phone and lasted approximately 15 minutes. Most questions replicated those from the first interview to determine whether or not people's opinions, circumstances and problems had changed in the intervening months.

5. Other Interviews

During the last six months of data collection, interviews with other key persons were conducted. The 10 mediators who had mediated the most sessions since the beginning of the research were selected for in-depth interviews in person. The remaining mediators were sent a pared-down questionnaire to fill out and return. Despite numerous follow-up efforts, only eleven were

returned. Thus, the analysis incorporates information on the perspectives and goals of 21 mediators.

In-depth interviews were also conducted in person with other key figures in the Cambridge and Somerville CHINS systems. These included interviews with 4 judges, 7 probation officers, 5 Department of Social Services workers, and 5 truant officers from the schools.

Interviews with mediators and other key figures centered on the characteristics of CHINS problems and families, ideas about the appropriateness of mediation, and opinions on the successes of both the CHP and the court with CHINS cases. Mediators were also asked about their experience in the mediation sessions and their styles of mediation.

6. Data from Program and Court Records

Much of the data collected were extracted from existing records of the CHP and the court. Demographic data and circumstances of the family problems were taken at the CHP intake interviews conducted by the case coordinator prior to the scheduling of a mediation. Other program data provided information on the frequency of contact with the families, the date of termination, and the reasons why the "non-mediated" cases never got to the mediation stage.

Court records also provided a wealth of data. They provided demographic data on the court sample and to a lesser

extent, on the "non-mediated" sample. They also provided information on the specific dates that CHINS cases were referred, petitions were issued, and cases were adjudicated and dismissed. Finally, these court records also provided information on the types of problems involved and the decisions and services imposed on the family.

OVERVIEW OF THE REPORT

Chapter 2 describes the Children's Hearings Project staff, procedures, and mediator selection and training. Chapter 3 presents demographic information on the families who came to the CHP and compares these families to the communities they come from. It contrasts the families in mediation with those who are referred to mediation but fail to come and those who are not referred. Chapter 4 describes the CHINS process in court and the typical approaches and strategies judges use in handling these cases. Chapters 5 and 6, ~~core~~ chapters of the report, describe the mediation process. Chapter 5 describes the nature of the process, its timing and characteristics, and Chapter 6 outlines the issues in mediation and compares the process to court and counseling.

Chapter 7 presents the families' view of mediation: their estimates of its strengths and weaknesses and its impact on

communication and family functioning. Chapter 8 delineates the characteristics of the mediators, their motivations, their perceptions of the families, and their understanding of the process. Chapter 9 compares the process by which the court and the CHP handle these cases and assesses mediation's impact on court caseloads. Chapter 10 compares the CHP with the role and work of the Children's Panels in Scotland. Chapter 11 summarizes the report and points out the implications for juvenile justice, social welfare policy and the theory of mediation.

CHAPTER 2

THE ORGANIZATION OF THE CHILDREN'S HEARINGS PROJECT

THE SELECTION OF THE SITE

The Children's Hearings Project was located in Cambridge, Massachusetts because court officials there, recognizing their limited options and remedies in status offender cases, were interested in an alternative. The District Court of Cambridge had a large enough status-offender caseload for the mediation project to have an impact on the court, and the judges and probation staff supported the project. They agreed to make referrals to the project and to allow staff workers into the court on a regular basis to receive those referrals. They did not, however, dismiss these cases automatically as the program staff had hoped, but retained supervision over them. The judges continued to feel responsible for the cases. Thus, the referral

situation never allowed the CHP to experiment with a process which totally replaced the court and relied on a purely social rather than a mixed socio/legal process.

Cambridge is a dense, heterogeneous city of almost 100,000 inhabitants which includes both a substantial poor, immigrant population and a large educated elite. The city is dominated by two major universities and a large, young and transient population of students and young professionals. In contrast, the more suburban towns also served by the Cambridge court are primarily residential communities with more homogeneous and stable populations. One month after opening, the project expanded to include Somerville, a predominantly white working-class community served by its own district court. The CHP office was located in East Cambridge, a convenient walk from the Cambridge court and a short drive from the Somerville court. It was quite accessible by public transportation to all the communities served. Thus it was separate from the court although quite nearby.

Introducing the Program and Areas of Resistance

Before locating in East Cambridge, the project and its sponsoring agency, Massachusetts Advocacy Center, had no established roots as an organization in the Cambridge/Somerville area. (If anything, the sponsoring agency had an adversarial

reputation with one of the local school systems when, in previous years, the agency had taken a strong advocacy position for bilingual education.) After renting the office, the project staff distributed flyers and spoke to local merchants describing the project as a new kind of program to help troubled families in the community. This effort was intended to reduce local fears commonly raised by programs dealing with adolescents who are involved with the court.

One of the preliminary tasks of a mediation program using community volunteers is to reach and identify people who want to serve as volunteers. These recruitment efforts also introduce the program to the organizations and institutions of the community. Program staff identified the major human service organizations, schools, and churches of the community and either met directly with their representatives or sent flyers and letters introducing the program. The staff focused on private non-profit and public (city and state-sponsored) agencies with a youth, family, educational, ethnic, and/or recreational focus.

These outreach efforts identified areas of resistance to a parent-child mediation program. Some major issues surfaced which still persist. In an era of shrinking public funds for human services, some expressed concern that a new project would compete for existing funds on which they depended. Mental health and social work agencies felt challenged by the idea that community volunteers could handle families which are usually in the province of professionals. The courts were more open to

mediation, but were unwilling to dismiss cases referred to mediation on the basis of a written agreement arrived at in mediation. Gradually, the court has become more willing to dismiss cases with agreements.

As a result of the decriminalization of status offenders, it is public social service agencies rather than youth correctional agencies who are obligated to help this population. Because the mediation program offered a new way to work with these families, program staff approached Department of Social Service officials during the planning phase. The first meetings with planners and administrators were mainly informational, describing the goals of the project and its potential benefits to the social service system. Later, when the program was ready to receive referrals, program staff met with the practitioners in the local social service office. This latter group tacitly agreed to refer status offender cases but did not agree to cooperate with abuse and neglect situations, as the CHP originally hoped. No formalized procedures were established for working together, but the project staff expressed its interest in receiving referrals of status offender cases which were either pre-court or already involved to some extent in the court process.

During the first year of the project, staff met periodically with social service personnel at the local and state levels to keep them informed of the program's progress as well as the barriers that existed to its implementation.

Later Developments

In this project, as in other mediation programs around the country, referrals were few at first, but steadily increased. During the first year, the vast majority of cases came directly from the court. Court officials began to see mediation as an alternative for some cases. On the other hand, two objectives of the program -- to receive more referrals from the public social service agency and to handle abuse and neglect cases -- were unfulfilled. A turning point occurred, however, when officials from the social service department in a nearby town asked if the project could take cases for mediation directly from their office. This seemed to offer a better opportunity than the original site to see how non-court cases could benefit from mediation and how a mediation program could work with a public social service agency. The CHP drew up formal agreements, located a site for mediation at a church, and recruited local volunteers. From a slow beginning, the referrals from this office grew steadily.

Nine months after the project started, another court in a nearby city asked if the project could expand to include its jurisdiction. This was not feasible at the time but six months later, when the project was more firmly established in its original site and in the newer one, it did expand.

Before the end of the two year demonstration phase of the project and withput the preliminary findings of this research

project, the Massachusetts Department of Social Services took a major step by funding the existing Children's Hearings Project and starting four new mediation programs of this type elsewhere in the state. The Department was particularly interested in how mediation could prevent further court involvement of children and parents and avoid long term placement of the child out of the home. Within the following year, three other new mediation programs were created and funded. These changes also meant an expansion of the CHP to several more court jurisdictions and social service area offices. The staff spent as much time working on cases referred from the social service agencies as they did on the court cases. Although the number of referrals from the Department of Social Services sharply increased, fewer of these cases came to a mediation session than the court-referred cases.

THE PROGRAM ORGANIZATION

The Staff

The staff responsible for planning, supervising, and directing the project had broad and diversified experience in developing new programs in the juvenile justice and social service fields. The case coordinators, those staff responsible

for meeting with families, explaining the mediation process, arranging the mediations, and providing the follow-up, had backgrounds in community-based youth services, advocacy, mediation, education, and work with linguistic and ethnic minorities. Early in the planning phase of the project, after study of other mediation models and the Scottish Children's Hearings system, the planners decided to recruit staff with special skills in working with youth and families. The staff were particularly interested in working with adolescents. In contrast to many of the mediation programs studied, the staff would be expected to work closely with the family in obtaining social services. A good understanding of family dynamics and adolescent development also seemed essential in order to adapt mediation for status offender families.

The Mediators

The program sought volunteers who represented a cross-section of the community, who had the personal qualities to be good mediators, and who had some experience in handling children and family matters. This emphasis on experience with families, whether at home, at work, or in the community, distinguished this project from other mediation programs handling primarily adults. The Scottish system placed the same priority on family experience.

Candidates for mediation had to be able to listen, to be objective, to be open to differences, and to respect the abilities of others to make decisions for themselves. They were to be representative of client families in terms of ethnicity, race and age. A three-person panel, initially used, was to have one member of the parent's age, one closer to the child's, and one of the family's ethnic background. Even when the program changed to a two-person panel, the same matching was stressed.

These criteria determined some of the routes followed in recruitment. The program made announcements in city and community newspapers, and distributed hundreds of flyers to community organizations, clubs, agencies and churches. Staff contacted community service agencies, assuming that people already involved in community service were more likely to be interested. One of the most effective strategies was word-of-mouth. Everyone connected with the project identified people in the community who might be interested or at least be able to lead to someone else who was. Essentially the same strategies were used nine months later when the project expanded and needed to replenish the original volunteer pool. By that time, many people had heard about the project and had been placed on a waiting list. The project also needed special capacities. For example, more families than anticipated chose to have mediations during the day, which led to a search for volunteers free in the daytime.

Volunteers were initially screened either over the phone or in person. They were given a full description of the program, asked about their interest in mediation, and told about the requirements to attend training and make a one-year commitment to mediate. Many people withdrew or were withdrawn at this point due to lack of interest, nonresidence in the community or inability to make the commitment for the training or the year of service.

After this step, prospective volunteers received an application form and an individual interview with the staff. In this interview the staff explored further each person's interest in getting involved, his or her experiences at work, at other volunteer activities, and in his or her own family. In order to get some sense of a person's ability to be objective, to listen, and to be sensitive to family issues, two case examples were read to the applicants and they were asked several questions about how each case might be handled if it were referred to a mediation program. This exercise was a way to identify biases toward parents or children and to assess understanding of low-income, single-parent, and minority families. The program accepted 27 volunteers in the first round for training and 20 in the second round, nine months later. About 60 were initially screened and 40 interviewed.

The Training

The training program for the volunteers at the Children's Hearings Project was developed from a standard curriculum used in other mediation programs with some significant differences. It consisted of an intensive 32 hour course. As in many mediation programs, the training combined presentations on mediation theory and technique along with extensive practice through role-playing. Mediation is presented as a method with principles, rules, and techniques that one is expected to learn during the training program. The major principles are that mediation is self-determining, non-adversarial, confidential, and voluntary, and that the mediator must be objective, neutral and non-judgmental. For the CHP training, role-plays incorporating a range of status offender situations were developed. Two-thirds of the training period was used in role-playing exercises where the mediators took turns acting as mediators, family members and observers. The training also included presentations on the background and philosophy of the project, its relation to other mediation developments, a brief history of the juvenile court, the status offender process in court, the educational and social service systems, and how the staff would work with families and the volunteers. Each trainee was given extensive printed materials on this subject. A visit to observe juvenile court sessions was arranged soon after the training was completed.

Characteristics of the Mediators

The staff made tremendous efforts to recruit a diverse and representative pool of mediators. The first training group included black, white, and Hispanics, young people as well as older people, and people with a wide variety of backgrounds and experience. Over the course of time, some volunteers found it difficult to commit as much time as others to mediating sessions. Thus, the core group of mediators which emerged and which was used most often in the program is far less representative than the original group. This group is more homogeneous than the staff had intended and reflects the realities of time available for participation rather than the staff's recruitment efforts or deliberate selection.

A description of the characteristics of the ten mediators who were called upon most often to mediation sessions provides some sense of the kind of people who were doing these mediation sessions. This is a fairly homogeneous group, but it is important to recognize that the total pool of mediators is far more heterogeneous. Seven of the ten were women and three were men. All were white, all but one had a college degree, and eight had some advanced education. Their ages ranged from 23 to 56, with an average of 39. Three were single, three married, two remarried, and two divorced. Thus, most had some experience with marriage and almost half with its break up, a common experience for the disputant families. Half had children. Family incomes

ranged from zero to $60,000, but fell mostly in the range of $10,000 to $30,000. Nine of the ten had backgrounds in the helping professions or the law. Thus, this is a group which brings considerable experience in the area of family life and law to the mediation project, both from their professional work and from their personal lives. They are a highly educated but not particularly affluent group, roughly similar in age to the parents in the families going through mediation.

INTRODUCING MEDIATION TO FAMILIES

Mediation is generally unfamiliar to status offender families, so that it is necessary to explain the mediation process thoroughly. Most families are first told about mediation either by court or social service personnel (See Chart 1, p. 35).

In court, the probation officer is usually the first person to mention mediation to a child and parent. This is usually done in an office in the courthouse, where mediation is presented as something to try without much of an explanation about what it is. If the family is interested it is referred to the staff of the mediation program, who are usually present at court when the referrals are made. They often meet immediately with the family, and explain the process. The judges usually present mediation as a strong recommendation. Both judges and

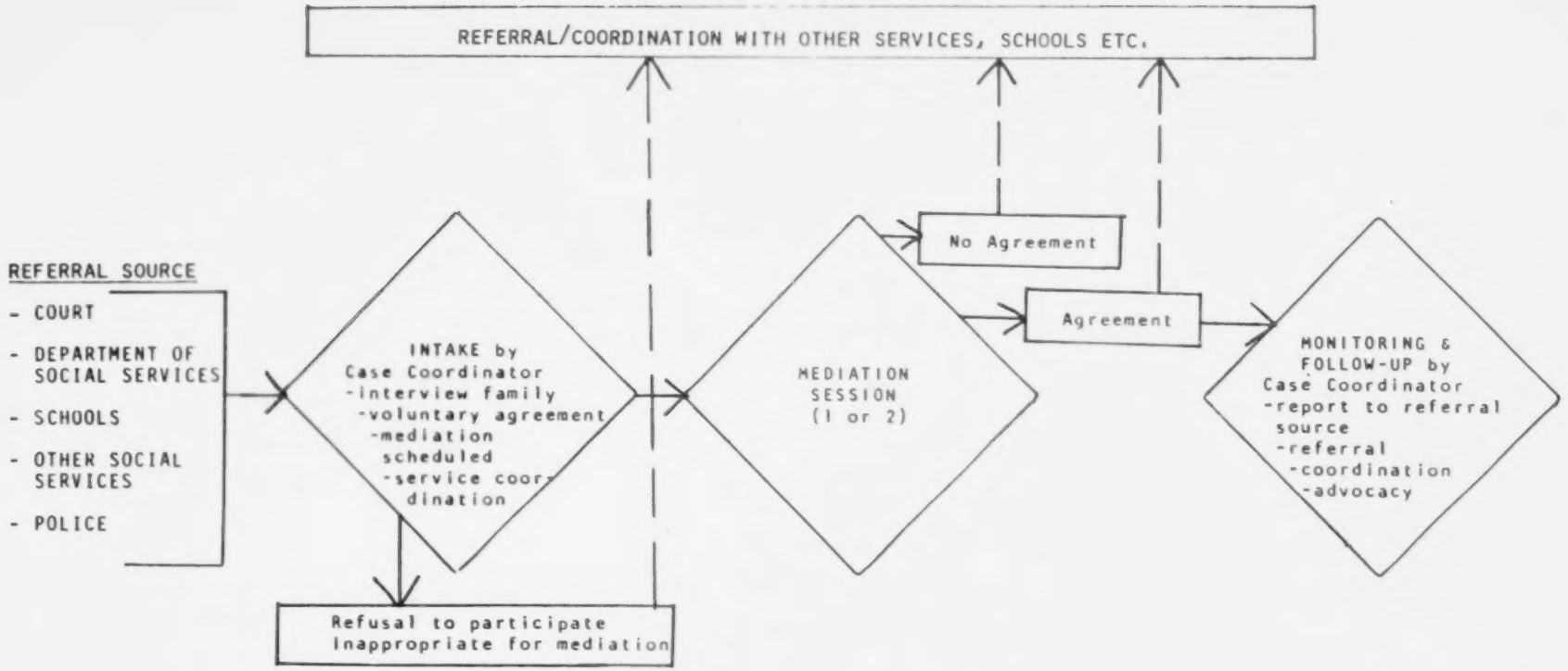
probation officers describe mediation as a way to get help. Occasionally they refer to the fact that it might help the family settle their differences or that it will help them arrive at a contract.

When referrals come from other sources, like social services, the referring person has also usually not told the family very much about mediation; usually just enough to get the family interested in it. The CHP staff spends a great deal of time explaining what mediation is to those who make referrals and often helps them decide how to present it to a family.

When the case coordinator first meets with a family, whether it has been referred from the court or any other source, he or she assumes that the family knows nothing about mediation. This interview with the family serves several functions. It introduces the mediation process to the family; it is a screening mechanism to see if all the family members want to accept mediation voluntarily and if they can understand the process; and it sets the stage for the mediation itself. The explanation of mediation emphasizes that it is voluntary, that the family members choose mediation because they want to, not because they must, that two trained community volunteer mediators will help a family communicate, and that the mediators will listen to each person's version of the situation and try to help them come up with an agreement on some of those things they are now fighting about. Further, the case coordinators say that the mediators will not judge who is right or wrong.

CHART 1

THE CHILDREN'S HEARINGS PROCESS


REFERRAL/COORDINATION WITH OTHER SERVICES, SCHOOLS ETC.
REFERRAL SOURCE
- COURT
- DEPARTMENT OF SOCIAL SERVICES
- SCHOOLS
- OTHER SOCIAL SERVICES
- POLICE
INTAKE by Case Coordinator -interview family -voluntary agreement -mediation scheduled -service coordination
Refusal to participate Inappropriate for mediation
MEDIATION SESSION (1 or 2)
No Agreement
Agreement
MONITORING & FOLLOW-UP by Case Coordinator -report to referral source -referral -coordination -advocacy

If the family is referred from court, they emphasize that mediation is an alternative. Frequently the coordinator will differentiate mediation from counseling. He or she will explain the coordinator's role from intake through mediation to the follow-up after mediation, the length of the mediation session (usually between two and four hours), where it will take place, and the way sessions are scheduled at the family's convenience. Before proceeding any further with the interview, the case coordinator asks how this process sounds. If the response is positive, the coordinator meets longer with all the family members together and asks them to talk about their situation and the history of the problem. Then the coordinator meets separately with the parent, the child and any other family member who may be present, such as a brother or stepparent.

The individual interviews give the coordinator an opportunity to check on how well each person understands the mediation process and how willing he or she is to participate. It is also a time when each person has a chance to talk in private about what and how things might change, an area that the child is often reluctant to talk about in front of the parent. The case coordinator explores further to see if there are real conflicts and negotiable issues, and may use some examples of issues to show how the mediation works and how an issue might get worked out in an agreement. A written voluntary consent form, required from every family member, is usually signed in the individual session. This further emphasizes the voluntary nature of the process.

Once a family gives some indication that it is interested in mediation, these interviews become a kind of preparation for and preview of the mediation process itself. Little information from these interviews is shared with the mediators. Before the intake process is over, the coordinator usually brings everyone back together again and asks for convenient times of the day and week to schedule a mediation. The coordinator then tries to arrange a session by the following week. He or she chooses a mediator team endeavoring to match mediators to the family in terms of age, sex, experience and ethnicity. The design of this intake process was influenced by the need to make sure children understand mediation and have an equal input. Chart 1, on page 35, shows the general process.

Duration of Cases in the Children's Hearings Project

The 51 research cases spent an average of 4.1 months in the Children's Hearings Project (see Table 1 in Appendix). On the average, it took 23 days from intake to mediation and, for those which had a second mediation session, 24 days between the first and second session. Two-fifths of the cases (20) had an intake on the same day as their arraignment in court, and half (25) had an intake before arraignment. On the average, cases were terminated from CHP three and a half months after the last mediation session, in accordance with a optimal monitoring period of three

months. Thus, CHP involvement began fairly quickly after the court referral, and within about three weeks led to a mediation session. Most cases were then terminated three months later, after the monitoring period, although they often remained longer under the supervision of the court, despite the desire of CHP staff to have cases automatically dismissed after an agreement was reached. As the project gained more credibility, judges became more willing to dismiss cases when a written agreement was reached.

CHAPTER 3

THE FAMILIES IN MEDIATION

The typical family head at the Children's Hearings Project (CHP) is a single mother in her thirties, living with her middle or youngest child, and working at a clerical job earning between $10,000 and $15,000 a year. She is white, Catholic, and has a high school education and is a native of Massachusetts. Her child, more likely a daughter, is about fourteen. She is rebellious at home, fails to attend school regularly, goes out with friends her mother thinks are a bad influence, and does not help at home. The mother is likely to have had trouble with her other children as well, but at this point, she is tired. She does not have the time to supervise the child adequately and maintain the job which supports them. She fears that her child will slide into bad patterns. She has gone to court because she is desperate and does not know what else to do.

DEMOGRAPHIC CHARACTERISTICS OF MEDIATED FAMILIES

More than half of the young people who came to the CHP were girls (59%), the average age was 14 years old with a range from 7 to 17, and most were white (78%).* As Tables 2, 3, 4, and 5 indicate, there were no Hispanic families in the research sample, although the CHP did handle a few Hispanic cases and one or two Portuguese cases which had to be eliminated from the study because the researcher did not speak Spanish or Portuguese. Seventy percent of the children and their families were Catholic, 26% Protestant, and 4% had no religion. Sixty-one percent lived in Cambridge, 12% in Somerville, and 27% in Boston and the adjacent towns to Cambridge.

Family Composition

Two-thirds of these children live in single-parent households. As Table 6 indicates, relatively few have two married parents and, as Table 7 shows, 61% live with a single parent. One-quarter live with two biological parents. Most of the single parents are women, and fathers are typically not

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* Most of the descriptive information on the families who had their problems mediated at the CHP compares these families to those who were referred but did not arrive at a mediation session for one of several reasons (non-mediated cases) and to those who were in court but were not referred by the court (court cases.)

actively involved in family life. Almost half the children see their fathers less than once a month (Table 8). Most of the mothers live with their children, but only one-third of the fathers do (Table 9). Even when a mother does not live with the family, she is likely to live in the area, unlike fathers, who are more likely to live out of state.

The large majority of women have experienced the dissolution of their marriages, and 10% have remarried (Table 6). Seven of the adolescents are living with stepparents. Most separations are not recent; the average duration of the separation is six years (Table 10). Most families are fairly large. Four of the 51 are only children and over two-thirds (69%) have two or more siblings. The children are more likely to be middle or youngest children than oldest children (Table 11). Mothers are 37 years old, on the average, and fathers about 40 (Table 12). These women typically began their families young, when they were in their late teens or early twenties.

Family Social and Economic Status

This is a native and local population, not an immigrant one. These families are almost entirely English-speaking and native Bostonians. All of the children were born in the United States, 92% in the Greater Boston area. Only one mother is foreign-born as are four of the fathers. Three fathers speak Portuguese and

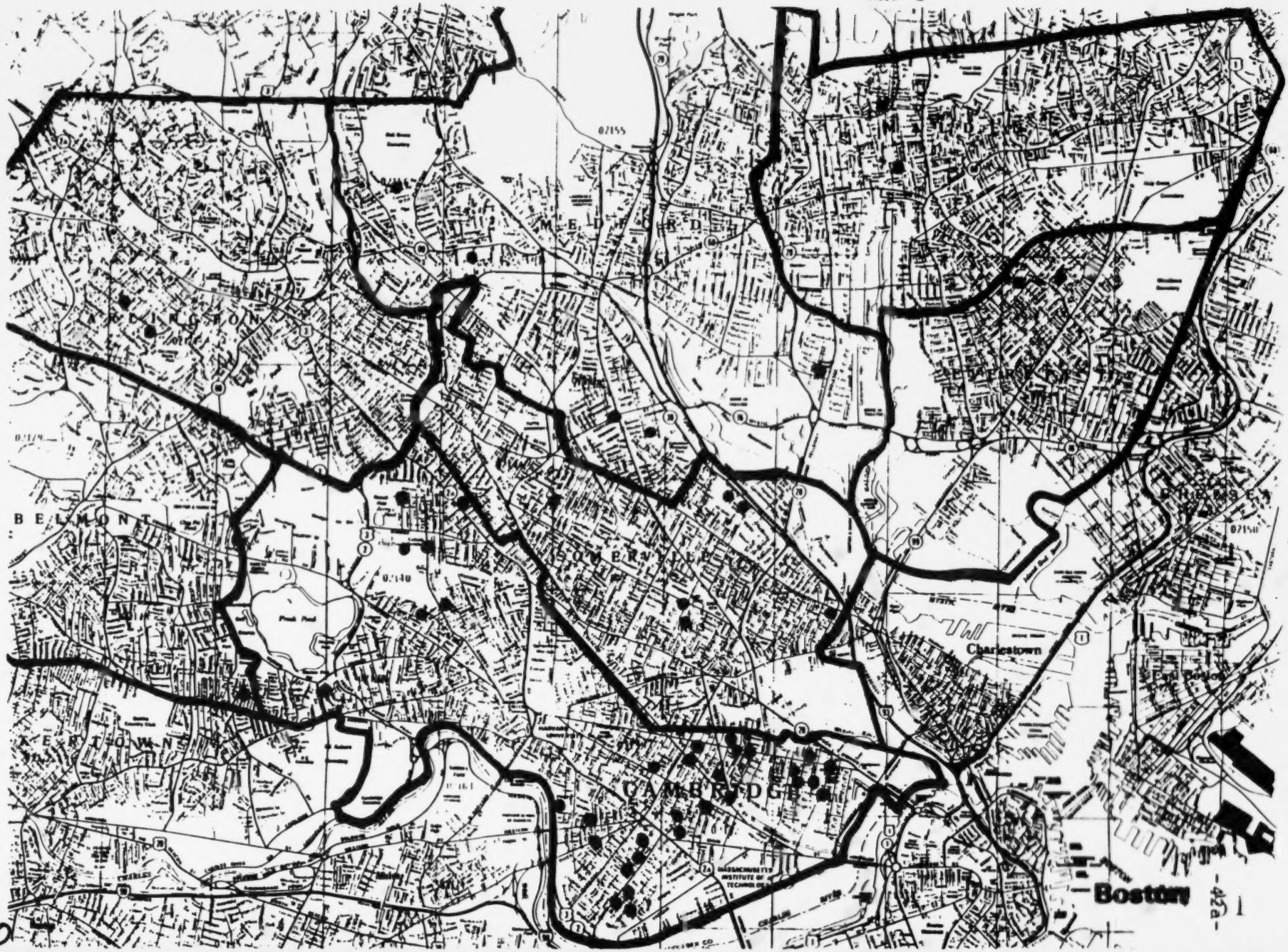
one Italian. Most of the mothers (86%) were also born in the Greater Boston area. About two-thirds of the mothers (60%) and one-third of the fathers (39%) come from the immediate Cambridge/Somerville area. Map 1, p.42a, indicates where these families live, indicating a cluster surrounding the court and mediation program in East Cambridge, one of the working-class sections of the city.

Almost half (47%) of the mothers work full time and only one-third do not work at all. They have held their present jobs for an average of 2 years, 8 months. Among the 25 fathers for whom information is available, 24 work full time and one works part time. They have held their jobs somewhat longer than the women, an average of 4 years and one month.

About two-thirds of the mothers are high school graduates but only 6% are college graduates (Table 13). Of the 36 fathers for whom information was available, the same proportion are high school graduates and 11% are college graduates. One-third dropped out of school early; and one-fifth of the mothers and fathers did not go beyond ninth grade.

The median family income of the 46 mediated families for whom information is available is $15,500 but the range is wide, from $4000 to over $50,000 (Table 14). Half are earning under $14,000, well below the median family income for Cambridge and

MAP I


MEDFORD
ARLINGTON
BELMONT
WATERTOWN
CAMBRIDGE
SOMERVILLE
Charlestown
Boston

Somerville reported in the 1980 census ($17,845 and $18,220 respectively). Thirty-five percent of these families earn under $10,000 annually while 22% earn more than $21,000 a year. Thus, financial pressures are significant in many of these families, but not in all of them. These are typically not welfare families, but families supported by the work of one or both parents. Two-thirds of the families are supported by employment and/or child support payments, 18% receive public assistance in addition to income from employment, and only 18% are supported solely by public assistance (Table 15). In 10% of the families the teenagers are also working.

The most common occupation for the mothers is clerical employment (29% of all mothers), followed by service employment (18%) and executive and professional employment (12%) (Table 16). Thirty-one percent of the mothers are not in the labor force. More fathers work in professional, technical, and sales jobs (31%) than mothers and many fewer in clerical positions, but about the same proportion of the men have skilled and semi-skilled manual jobs as the women have clerical jobs.

Comparison with Cambridge and Somerville

In order to determine how the characteristics of the families coming to mediation compare with those of the communities from which they came, the study compared the social

and economic characteristics of those 37 families of the total group which came from the Cambridge-Somerville area to the general population of the area, provided by the 1980 census. This comparison suggests that the CHP families were typically poorer, less educated, more likely to be single mothers, and more likely to have clerical and service jobs than the general population in the communities from which they came. Although the vast majority of families coming to the CHP are white, the research population is disproportionately black in comparison to the largely white communities of Cambridge and Somerville. Seventy-three percent of the CHP families from this area are white but 89% of the residents of these towns are white. Twenty-eight percent of households with children in these two towns are single-parent households, but 70% of the CHP families from these two towns have single parents. Intriguingly, the CHP mothers are more likely to be working than the general population. Forty percent of the women in these two towns are not in the work force but only 32% of the CHP mothers from this area are not working. In fact, a comparison with the working status of mothers in non-mediated cases suggests that working mothers are disproportionately more likely to follow through with mediation.

These families are typically poorer than the average in both towns. The average family income of the 5 Somerville families is $13,200 in contrast to a town average of $19,738 (based on 1980 census data on 1979 incomes, roughly three years before this study), and the 27 Cambridge families have an average income of $12,900 in comparison to the town average of $22,924.

The CHP families are disproportionately members of the working class. CHP mothers from Cambridge and Somerville were much more likely to have clerical and sales jobs than the general population and the fathers to have manual and service jobs (Table 17). Although 32% of the Cambridge/Somerville work force has executive and professional jobs, only about 6% of the parents from these areas have jobs of this type. The parents in the CHP families also have less education than the general population. Slightly under half of the parents from Cambridge and Somerville have a high school diploma and none has completed college, but in the general population, 74% have a high school diploma and 29% are college graduates. Seventeen percent of these have advanced education (Tables 13 and 18).*

Yet, despite their working-class social status, CHP families are less likely to be immigrants or transients than the general population. Eighteen percent of the population of these two towns is foreign-born and 46% born out-of-state, while the CHP parents from these areas are 7% foreign-born and 22% born out-of-state. Clearly, families who bring their children to court or mediation as status offenders are neither welfare poor nor recent immigrants.

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* As Table 18 indicates, Cambridge is an unsually highly educated town, with 59% of its adult residents having some college education: 38% of these having a college degree, and 24% of these have some advanced education.

The CHP Teenagers in School

The average CHP young person was in the ninth grade (Table 19). Two-thirds were in high school, 12% in junior high, and 24% in grammar school (Table 20). Half had been in their present school for less than a year. About half the children had good attendance and half poor. About half say they like school (54%).

The schools have typically already made some efforts to deal with school problems. Twenty-eight percent of the children have had an individual educational assessment to check for special needs, and 41% are already in some special school program. Almost half (47%) have recently changed schools. It appears that in many of these families, school problems are central to the reasons they ended up in court. However, only 26% of the children reported that they were doing poorly with the potential of flunking school or having a serious behavior problem. It appears that many of these young people are having difficulty fitting into a school situation, but are able to do the work.

THE COURT CONTEXT

Most of these families (77%) were referred to the CHP after they went to court. Only 9 (18%) of these cases had no involvement with the court at all (Table 21). However, most were

just beginning the court process. Ten percent had been to court but no application had been filed, 16% had an application filed but had not had a hearing, and 57% had had a hearing. Of the cases not referred by the court, five were sent by a school, three came from the family itself, two from the Department of Social Services, one from another social service agency and one from the police (Table 22). The parent filed the CHINS application in three-quarters of the cases (Table 23).

The cases fell into three types: stubborn children, 43%, runaways, 33%, and truants, 24% (Table 24). All the referral sources sent children labeled stubborn or runaway more often than those who were truants (Table 25). Of the CHINS cases which the researcher observed in the Cambridge and Somerville courts during the 18 months of the study, 35% of the truancy cases were referred, 55% of the stubborn cases, and 48% of the runaway cases. The bulk of non-court referrals, eight out of twelve, were children designated stubborn. The referral sources seem to feel that mediation is a process most appropriate for families in which there are internal conflicts and complex family dynamics and less appropriate for cases in which a child is simply failing to attend school.

Overall, the CHP cases did not go far in the court process. When the judge decides that a case is serious enough to go to the full hearing stage, he issues the petition and sets a date for the hearing. A petition was issued in only 35% (Table 26) and the child was adjudicated a Child in Need of Service in 16%

(Table 27). Sixty percent of the cases had been dismissed by the end of the research period (Table 28). A typical case had appeared in court an average of 5 times, but with a range from none to 15 appearances (Table 29). Because families are not required to attend every session, families were actually in court less - an average of four times, but for some as often as 9 times (Table 30). Most of the children reported that they had already been in court, often several times, before coming to the CHP: 17% had not, 34% had been once, 22% twice, and 27% three or more times.

For many of these families, the court and the CHINS process are neither new nor unfamiliar. Almost a third of the families (31%) had already had siblings involved in CHINS proceedings (Table 31). One-third of the youths said that they had friends who had been to court on a delinquency, 12% had friends in court on a CHINS, 27% had friends in court on both, and only 25% knew no one who had been to court. Twenty-five percent of the young people had friends who had been to the CHP. When parents and children were asked in the one-month follow-up if they knew other CHINS children 40% indicated that they did: 49% of the children, 35% of the mothers, and 29% of the fathers. Five percent of the children had been involved in a previous CHINS and 18% in a delinquency charge. Only one had been involved with an abuse and neglect proceeding.

Recourse to court is typically precipitated by truancy or the child's running away from home. Fifty-eight percent of the

families listed these particular events as those which galvanized them into seeking outside assistance. Truancy was also central to court deliberations, arising in 71% of all observed cases, followed in a distant second by curfews, which came up in 26% of all cases. The court is rarely the first resort for these problems, however. One-third (32%) of the families had already tried counseling, 28% said they had sought advice from a professional or relative, 10% had changed the school, and 10% had the child living with someone else. One-third of the family members said that they had tried to deal with the problem by communicating, one-fifth by cooperating more with the child, 16% by giving in or bribing the child, and 12% by punishment or yelling.

COMPARISON WITH NON-MEDIATED CHINS FAMILIES

The research compared families who went through the mediation process with those which were referred by the court but did not follow through with mediation and those which were in court but not referred. We drew a random sample of 50 cases from the program files which had been referred to the program but not mediated (called non-mediated cases) and a sample of 50 cases which had appeared in court but had not been referred (called court cases). (For further discussion of this sample see Chapter

1.) Since 43% of the cases which were handled by these two courts during the research period were referred to the CHP, according to our observations, the court sample describes those 57% which were not referred. It describes, therefore, not the total universe of court-handled CHINS cases but the half which were not referred.

In many respects, the families in these three groups come from similar social, occupational, financial, and educational backgrounds. The children are about the same age, an average of 14 years, although a higher proportion of referred than court teenagers are over 16 (Table 3). Their racial and religious characteristics are also similar (Tables 4 and 5). The average grade is the same, although a higher proportion of the court sample is in lower grades (Table 19). The court and the mediated sample are both about 60% girls, but 72% of the non-mediated group, those referred but not mediated, are female (Table 2). The family situations of the mediated and the non-mediated groups are roughly the same, but the court sample has a higher proportion of married parents and slightly fewer remarried parents (Tables 6 and 7). These data suggest that the court cases are more likely to be simple truancies while the referred cases are more likely to involve family conflict.

The Decision to Refer

The major difference between the court sample and those which were referred to mediation, (both those which reached a mediation session and those which did not) is the kind of problem involved in each case. The court sample has a much higher proportion of truants (58%) than the mediated group (24%) and a lower proportion of stubborns (26%) than the mediated group (43%) (see Table 24). A comparison of the mediated and non-mediated cases suggests that truants, once referred, are less likely to come to a session than stubborns or runaways. Moreover, a comparison of who filed the CHINS among the three groups suggests that the school is far more likely to have initiated the action in the court cases than the mediated cases, and that cases initiated by the parents are much more likely to reach a mediation session than those filed by the school (Table 23).

Observation of the court handling of the cases in the three groups suggests that in both the mediated and the non-mediated groups, curfews, chores, the child's social life, and family dynamics were mentioned more often than in the court cases (Table 32). These differences suggest that when issues of family conflict appear, they serve as a red flag to referral sources that these are potential mediation cases. When the central concerns are parental control of social life and the child's participation at home, the judge and other referral sources seem to think of mediation.

Those cases not referred, on the other hand, are typically truancy problems in which there is no significant family conflict, although there could be other kinds of problems within the family. Unlike stubborn and runaway cases, truancies often do not involve conflicts between parents and children, but often find parents and children jointly pitted against the school. Court cases not sent to mediation are more likely to be truancy problems filed by the school, while mediation cases are stubborn and runaway cases inititated by parents. As Table 31 suggests, families who followed through with mediation are also more likely to have had experience with CHINS siblings than the court families.

Another, possibly related, difference between the cases referred to mediation and the court cases is the educational level of the parents. Although the mean years of education are roughly the same, the parents of the court sample are less likely to have finished high school than the parents of both the mediated and the non-mediated groups (Table 13). The parents who are referred to mediation are better educated than those who are not. Sixty-five percent of the mothers in the mediated group have at least a high school education as do 63% of the non-mediated mothers, in comparison to 49% of the court group. The same disparity appears among the fathers: 64% of the mediated group, 60% of the non-mediated group, and only 45% of the court sample have high school educations.

Similarly, both the non-mediated and the mediated families have a higher proportion of parents working in professional, technical and sales occupations than the court sample (Table 16). The mothers in the court sample are more heavily involved in service work and the fathers in manual work. It appears that the cases in court which are not referred to mediation typically concern children who are not attending school whose parents also dropped out of school and who are doing manual jobs. Those who are referred, in contrast, tend to be slightly better educated and are more likely to have professional, technical, and sales jobs. Their problems are more focused on conflicts within the family.

The Decision to Participate

In order to find out why families did not follow through with a mediation session, we tabulated the reasons given by each non-mediated family in the program files. These reasons were provided by the case coordinator, but if a family gave a reason for not choosing mediation, the case coordinator reported that reason. The reasons are listed in Table 33. In some cases, there were two reasons. The most common reason is that the family was not interested, but this was only mentioned in one-quarter of the cases. The second most common reason was that the case was inappropriate, often because it involved school problems. In a

few, the situation was inappropriate because it was too severe, in others the situation was resolved, and in still others, the referral source did not follow through and complete the referral.

A comparison between the social and economic situations of the mediated and the non-mediated cases reveals some differences. Families in mediation are more likely to have working mothers than non-mediation families. Only 31% of the mediated mothers are not working, in comparison to 48% of the non-mediated (Table 16). Furthermore, the mediated families are distinctly more affluent than the non-mediated families, with a mean income of $15,500 in comparison to $10,000 (Table 14). Twenty-two percent of the mediated families earn over $21,000 in contrast to only 6% of the non-mediated ones. Mediated families are slightly more likely to consist of a parent living with another person or remarried than non-mediated cases (Table 7).

Finally, one of the sharpest differences is in the role of the parents in initiating the complaint. Cases that came to mediation were much more often filed by the parents (73%) than those which did not (51%) (Table 23). Parents who take the initiative to go to court are more likely to end up in mediation. In sum, the families which participated in mediation were the slightly more affluent, working-mother families in which the parents had gone to court to seek help.

CHAPTER 4

STATUS OFFENDERS IN COURT

The court serves as an important backdrop for all the cases in the Children's Hearings Project (CHP), even though only three-quarters were referred directly by the court. The rest came from the school, social service agencies, the police, and directly from the families. Yet, virtually all the cases could have gone to court and could do so after mediation if the problem continued. Families who turn to court generally feel desperate and frustrated. They have tried other approaches and failed. They now feel that they have no place else to go. What happens to them in court? This chapter describes what the court process is like, how judges and probation officers handle status offenders, and the outcomes of the process. This is the formal legal process that the CHP had hoped to replace.

STATUS OFFENDERS AND THE LAW

A status offense is a legal category which applies only to juveniles and identifies certain behaviors as deserving of court intervention. Each state may define the categories somewhat differently, but generally this non-criminal misbehavior includes running away from the home of the custodial parent or guardian, acting against the wishes of parents, and/or failing to attend school. According to Massachusetts law (Chapter 1073 of the Acts of 1973, General Laws, Chapter 119) three types of behavior are associated with being a Child in Need of Services. A child can be brought to the attention of the court for being:

1. a runaway
2. stubborn (sometimes referred to as incorrigible, out of control, or acting against the wishes of parents)
3. truant/school offender--that is, a child who willfully fails to attend school or persistently violates school regulations

The overwhelming majority of youths identified as CHINS are adolescents between the ages of 12 and 16 years old. To be a truant, a child must be between the ages of 6 and 16. Runaway and stubborn children must be below the age of 17 when brought to court. However, the court can maintain jurisdiction for runaways and stubborn children until their 18th birthday.

Laws governing status offenders specify that these youths require services or supervision. The court process is designed

to make a legal determination about the need for services and to provide these services. Only parents, guardians, school officials or police officers can initiate the process at court. According to the formal procedure, complaints begin in a clerk's office, but in practice most situations are referred to a probation officer specializing in juvenile matters.

The Formal Court Procedures

In Massachusetts, when a parent goes to take out a complaint in a clerk's office of the court, that parent will immediately be referred to a probation officer handling juvenile matters (see Chart 2, p. 58). That probation officer either advises, refers, or diverts the matter to an outside agency or recommends a formal complaint. Whether or not the case proceeds further, the probation officer acts as helper/problem solver, referral agent, and officer of the court.

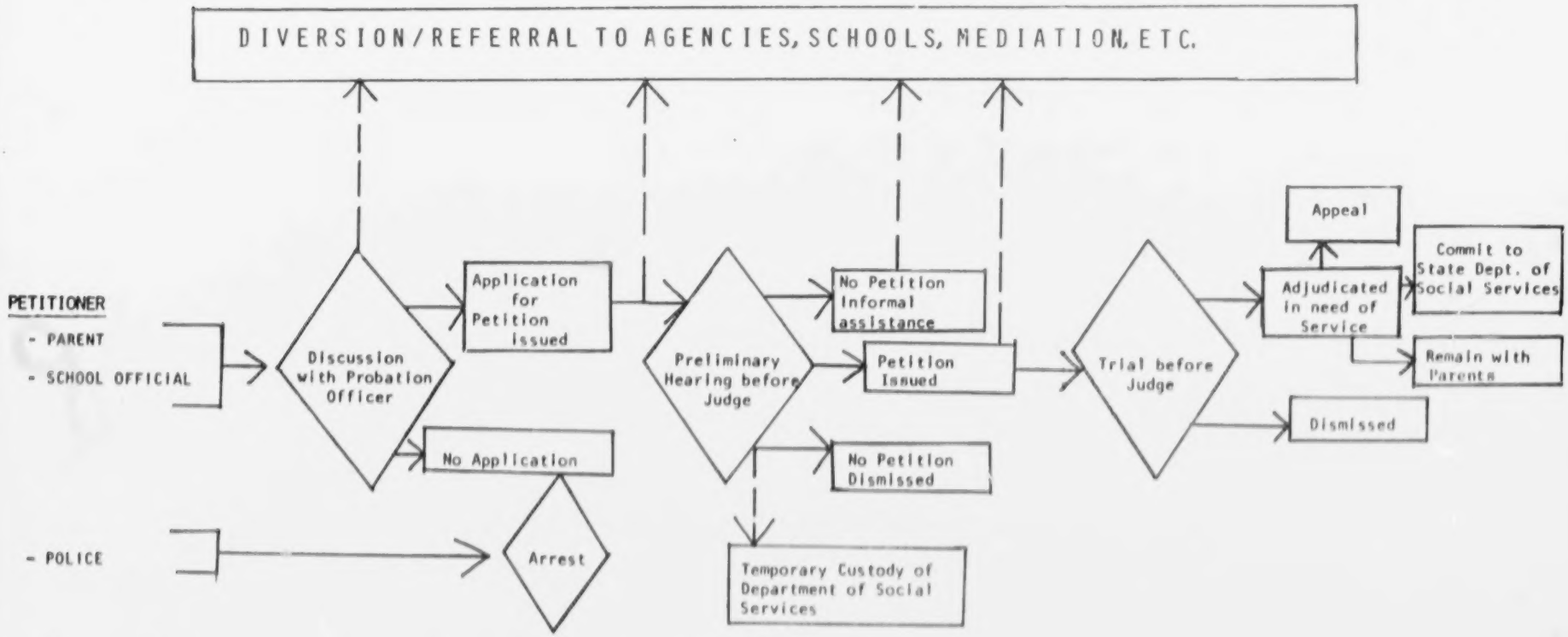
The case has a preliminary hearing at the arraignment which establishes the basis for continuing court involvement. Court officials can postpone any formal adjudication while arrangements for services such as counseling or temporary foster care placement or educational evaluations are made. There is usually an implied hope that these non-legal interventions will begin to address the problems which brought the child to the court's attention. At almost any point in the process, the case can be continued with an indefinite number of court appearances

CHART 2

THE COURT PROCESS

FOR STATUS OFFENDERS*

IN MASSACHUSETTS



*Status Offenders are referred to as Children in Need of Services (CHINS)

which serve to monitor the changes in the child's family or school situation. On the other hand, the court can move to a formal hearing. At this point, the court decides if the child should be adjudicated a CHINS, a disposition which means that the child has been determined to be in need of services. The child is then committed to the custody of the state's Department of Social Services (DSS). Often a court will take this course of action to guarantee that services from the state, especially out-of-home placement in foster homes or group residences, will be made available to the child. After a trial and adjudication, the court maintains jurisdiction over the case and monitors the child's progress and the state agency's provision of services.

Each court holds juvenile sessions for status offenders about once a week, usually for only part of the day. These sessions are private, attended only by the judge, clerk, probation officer, family members, lawyers, social service personnel and school personnel involved in the case. The judges in Cambridge and Somerville courts gave the CHP research team permission to observe the sessions. In Cambridge, they take place in a room in the courthouse, but one in which the symbols of judicial power are muted. The judges sit on a raised platform facing a table where the family members and involved officials sit. In Somerville, the status offenders are handled in a regular courtroom, but it is closed during juvenile sessions and only those persons involved in the case are allowed to attend. In both courts, the tenor of the hearings is far more informal,

personal, and relaxed than in adult court sessions. The caseload is relatively small: in a year and a half, the two courts handled over 194 cases.*

THE DIALOGUE OF COURT HEARINGS

Judges often comment, both privately and in court sessions, that CHINS cases are difficult for them to deal with. They complain that they have little statutory power over these young people and are largely reduced to admonishing the children to behave better and recommending social services.

As a result, judges adopt a strategy which is a curious blend of threat and help. They offer a variety of services and forms of assistance at the same time as they threaten the imposition of penalties if the young people do not return to school, obey their parents, or stop running away from home. One judge often told the young people that he was handling them with kid gloves, but if they did not improve, he would have to take his gloves off. Other judges put it this way:

> "Don't feel intimidated by being here. We're here to help you. But when you reject it, we get angry."

---

* The researcher observed this number during her regular observations of the juvenile court, but some were missed because she was unable to attend every session.

> "The theory behind CHINS is not punishment. These people are trying to help you."

When a probation officer asked a judge to require a teenager to come to court if she missed her appointment with her therapist, he refused.

> "She has the right not to go, we can't make her go. This is a free country. But we can take her out of the home if she doesn't go to school."

Thus, judges seem to move between offering help and warning them about a variety of dire consequences if they fail to take advantage of the help.

Judges typically use an authoritarian approach, demanding or requiring certain forms of behavior. For example:

> "I want you back here next week. You will go to school. That's an order of the court."

> "You will stay with your grandmother and that's that."

Despite these demands, however, the judges have very little power to compel behavior. They can only require appearances in court, refer to services, and adjudicate a child a CHINS. The reliance on authoritarian demands for improved behavior is probably a substitute for more substantive powers to impose penalties. For example, when one mother asked that her child be placed in a residential home, the judge replied,

> "There are not many placements. I can't really get you a residential placement."

In fact, only 22% of the 151 young people examined in this research study (the mediated, non-mediated, and court groups)

were placed in some residential setting outside their homes. One of the judges pointed out, in a private interview, that the court can only pressure the teenagers; that it really relies on the social services and agencies to help. The role of the courts, he said, is to force people to get the help they need.

The Two-Stage Strategy

Judges seem to adopt a two-stage strategy for dealing with CHINS cases. In the first stage, the judge explores the problems that brought the child to court, asks about the home and school situation, and makes referrals and recommendations for treatment. In this stage, judges admonish the young people about the virtue and necessity of attending school. They are typically concerned about and sympathetic to the family's problems. After the initial few hearings, the judges move into a second stage. If a child has responded and changed her behavior, the judge will praise and congratulate her in a friendly and ebullient manner. If the child has refused to accept help and persisted in her truant or rebellious behavior, the judge will become more aggressive and threatening.

The first stage, the investigatory one, dominates the initial hearing before a judge. These hearings are relatively long, often lasting between a half hour and one hour. The following dialogue provides some sense of the nature and

substance of these discussions. It is based on notes taken in the hearings rather than on transcriptions of tape recordings and thus conveys the content of the discussion rather than the exact wording.

A girl is brought into the courtroom accompanied by her mother, the case coordinator from the CHP, and a policeman who is translating from Spanish for the mother.

Judge: Do you know why you are here?
Child: Yes, for being a stubborn child.
Police: Lately, Mrs. A has been coming to the police station concerned about Jane (pseudonym for the daughter.) She ran away from home and is hanging out with a pimp. According to our records, he is not a nice gentleman and is involved with drugs.
Judge: (To Jane) Is there anything you want to say?
Child: No, he's not a pimp.
Judge: I take it that if you found out he was a man who took drugs and was a pimp, you wouldn't want to be with him?
Child: That's right. I wouldn't want to have anything to do with a man like that.
Mother: She lies, she comes home when she feels like it. I don't think that man should be with her.
Judge: Are you married now?
Mother: I have been divorced for ten years.
Judge: (To CHP case coordinator-CC) Why are you here?
CC: They seem interested in mediation.
Judge: Rather than issue the complaint, I think we should leave it at the application stage. (To the mother): The problem is not all her or all you.
Child: It's communication.
Judge: I will continue the case for six weeks. (To CC) If it is working out, they don't have to come back.

In another case, the probation officer explains something about the family situation to the judge. Then, the girl, her mother and father, a lawyer, a social worker from the Department of Social Services, a woman friend of the teenager, and the CHP case coordinator come into the courtroom.

Judge: You're the young lady? I thought you were a social worker.
Child: I am a sophomore in (suburban) High.
Judge: Do you know why you are here? (Judge explains CHINS law, runaway provisions, decriminalization of CHINS.) Very seldom are these problems only a parent problem or child problem. Usually they are family problems. (He appoints an attorney for the child.) What is the problem now?
P.O. (Probation Officer): The child left home and is living with Mrs. Smith (a pseudonym) without her parents permission. The house is one block away. Before the father filed the CHINS application, the family was referred to the Children's Hearings Project, but that fell through.
Judge: I wonder if Mrs. Smith is important to the proceedings.
P.O.: I think she is.
Father: I have no objection to her being present.
Mother: I do.
(Judge asks Mrs. Smith to leave.)
Mother: She has been caught in lies. Mrs. Smith is divorced and she lives with a girlfriend and both have their boyfriends sleep over. That is why I came to file a CHINS.
Father: This is just the tip of the iceberg. The thing that disturbed me most was that Mrs. Smith harbored our daughter for 24 hours and didn't contact us.
Mother: My husband hasn't been sleeping and I'm on Valium and suspended from work. We let her go skating and to a party at a friend's and she stayed out that night. She loves Southern Comfort and she has had sex. It's all snowballed. We trusted her but we don't trust her anymore.
Judge: (To child) What is your story?
Child: What my parents say about the party is true, and I got grounded. Most of my friends were at that party. I did run away. I ran because my mother was mad. She said she was going to beat me and I'm afraid of her. We don't communicate. It is not just my fault. I feel very unloved. My parents hate most of my friends and they won't discuss them.
Judge: It is not that your parents don't like your friends, but they see that hanging with those people is not helpful to you. (To mother) It hurt you when she ran away, but it hurt her also.
Mother: I don't agree.
Judge: It doesn't matter, I'm right. (He recommends that the DSS carry out an investigation, assigns temporary custody to DSS and allows the child to remain with Mrs. Smith.) There is no benefit from a forced fusion. Case continued for one month.

This hearing lasted one hour, and during the discussion, both the mother and the daughter were in tears at various times.

Sometimes judges give explicit advice, even in initial hearings. In the case of a girl charged with being stubborn, the mother complained that the girl talked back to her. The judge urged the mother: "Be firm with her or she'll keep pushing." A runaway young woman had tried living with both her mother and father, and now sought a foster home placement. The judge advised her to stay with her natural parents, to stay away from a foster care situation that could be damaging, and urged her to try staying home for thirty days. He refused to let her move in with her friend's parents.

After the initial hearing, the case is typically called back for review every few months. During the review period, judges generally shift to one of the two variants of the second stage: praise or condemnation. If the teenager has responded to the advice and the initial referrals, he or she has a very short hearing in which the judge offers praise, congratulations, and a reminder to continue to do well, often delivered with a great deal of positive support. The judge will either dismiss the case or continue it for a period of months to be automatically dismissed if the good behavior continues.

On the other hand, if the teenager has failed to improve his or her behavior, which often involves failing to attend school regularly, judges shift to a threat and condemnation approach. One boy returned to the court a year after an initial

hearing on truancy. He was still not attending school. He said that he couldn't wait until he is 16 and does not have to go. The judge responded:

> "By the time you are 16, you are going to be a total zero. We're not trying to punish you. But you are floating along. I know this youngster is going down the tubes, and for me to sit here and smile would not be doing my job."

In another case of a persistant truant who also was accused of disobeying his father, the judge called the boy up to the bench and said:

> "What are you, some sort of a big deal? Who do you think you are,- the Pope? The President? Let me tell you something. I'll give you a week to get it together. If you don't, I'm going to come down on you like a redwood."

A girl, charged with being stubborn, had been in several residential facilities provided by a private agency and by DSS, and in each she had either run away or been thrown out. None of the agencies wanted to take her back. She also had a larceny charge against her. The judge pointed out:

> "If you do not cooperate with DSS, you will end up adjudicated a delinquent and placed in a secure facility with the youth corrections department."

When a girl from a relatively affluent town continued to stay home from school, the judge adjudicated her a CHINS and committed her to DSS with a recommendation that she be placed in a residential facility outside her home. He commented:

> "In my amateur opinion, you have a very bad truancy problem and it does not seem that your social history warrants it."

She did return to school and was not residentially placed.

In order to gain some sense of the frequency of these modes of handling cases, common strategies were tabulated from observations of 15 court sessions held in two courts under 3 different judges. During this time, the courts held hearings on 71 cases. Many of these hearings were simply brief discussions of ongoing cases attended only by the social workers, school personnel, and court officials, not the child or parents. In those hearings in which the family was present, the judge admonished the child to behave differently in 17 of the cases, praised the young person in 10, and recommended counseling in 11. In 28, the judge threatened some kind of legal action or penalty for misbehavior. The most common threats were to advance the case or to require the parties to appear more often in court (12 cases), to recommend residential placement (14), and to commit to DSS (14). Other threats included removal from the home (4), activating a delinquency and sending the case to youth corrections (2), and deporting the child (1).

It appears that the court has responded to its limited power to compel these young people to obey its commands and their resistance to its commands by issuing authoritative orders, using its ability to compel appearances, and exaggerating its readiness to remove a young person from the home. Much of the apparently harsh language of the judges seems a response to their sense of impotence in resolving this kind of case. Judges cannot place teenagers, but can only commit them to DSS, which makes the

placement decision. Placements are expensive for the state, and not readily available. Judges may threaten harshly because they realize that there is little else that they can do.

Clearly, the judges resort to threats and aggressive approaches only after other methods have failed. The two-stage analysis makes clear that the process by which a child is handled in court changes over time. Understanding the dynamics and dialogue of the court requires an appreciation of where the case is in this evolution. As the mediation process is described in the next chapter, it is helpful to compare it not to a global "court process", but to the various stages of that process.

CHAPTER 5

THE MEDIATION PROCESS I: CHARACTERISTICS

During its three years of experience with status offender families, the Children's Hearings Project (CHP) has tailored its mediation process to the unique features of CHINS cases. The process has been shaped by the underlying philosophy of the CHP staff and its sponsoring agency, the Massachusetts Advocacy Center.* This chapter describes the process itself: its underlying principles, the nature and role of agreements, and its typical characteristics.

Organizations in complex societies gradually develop ways of doing a job through the interaction between the objectives of the task and the social context within which it is done (Silbey 1980-81). The institutional framework of social services, legal

* As the process has been implemented in new sites, it has been formalized in two manuals, one for mediators and one for trainers.

regulations, and court organization surrounding the CHP shaped its structure and content. It was affected by the courts' reluctance to dismiss mediated CHINS cases. The philosophy of the Massachusetts Advocacy Center with its interest in child advocacy and decriminalization also helped to forge the program and the process it used. Many of the staff members were particularly concerned about children's rights. Further, the staff and mediators brought to their work a set of ideas about adolescent rebellion and family functioning. These forces together contributed to the formation of a unique ideology and practice of mediation which can be described as a distinct local culture of mediation.

As a new process becomes established, ideas which are fluid and experimental are gradually shaped into patterns which are routine, described as, "This is the way we do things" (Silbey 1980-81). Newcomers at this point are presented with a somewhat different picture from those involved at the outset. The focus of concern is less on "How do you think we should do this?" than "This is the way things are done." For example, after some experience the staff of the CHP decided that it was not possible to negotiate changing children's friends, as parents often wished. The staff urged the mediators to try some other approach. Gradually, this view became one of the parameters of the task. It is this gradual formation of a definition of how things are done, produced by the interaction between the original notion of the process and actual experience with success and

failure, that leads to the creation of new cultural patterns. The research on the Children's Hearings Project covered its formative period, but this chapter will describe the CHP process as it was defined and elaborated after 2 years' experience. Chapter 6 continues the description of the mediation process, analyzing it as a way of teaching negotiation skills.

DESCRIPTION OF THE PROCESS

The underlying theory of CHP mediation is that family conflicts can be helped by constructing concrete agreements about the management of daily family life. According to the theory, these agreements improve family functioning because, as family members find that small and concrete agreements are followed, they gradually come to trust one another more fully and agree more readily on other issues. Further, CHP theory argues that if both sides to a conflict can come to understand the reasons for the other side's behavior more fully, they will be more willing to negotiate and compromise over differences. Follow-up interviews with mediated families showed that family members often did feel they understood one another better and had changed the way they handled conflict. These findings are described in detail in Chapter 7.

In the Children's Hearings Project, the mediators are volunteers who live and work in the local communities. The parties in conflict are the family members--parents and their children. Occasionally a school official or social service worker participates in a mediation session. The mediators, who usually work in a team of two, listen carefully to each person and help each to clarify issues of concern and identify ways the situation could change. The process is voluntary: each party agrees to participate and during the mediation any party has the right to withdraw. The mediators' role is a neutral one. They are not to judge or advocate one family member's position over another. If the family reaches an agreement, it is written up as a document which is signed by all parties at the mediation session, including the mediators. The whole mediation process is considered confidential--what parties tell the mediators cannot be shared with persons not in the mediation session, including courts and social service agencies. Only the agreement itself and whether or not the family attended a mediation session is shared.

The major difference between the CHP's model and that of other mediation programs is its emphasis on giving the young people equal input. Mediators try to balance the terms of the agreement between parents and children, so that each receives some benefits and each takes some responsibilty for making changes.

The process consists of a joint (or public) session with all the family members, private sessions with individual members, and recesses of the mediators alone to discuss their approaches and strategies. Before the mediation session, mediators receive only factual information about the family-- names, ages, referral source, court and school status, and current involvement with social service agencies.

In the initial joint session, the mediators introduce themselves and the mediation process. In this session the mediators learn about the areas of conflict and hear each person's version of the situation which has brought the family to mediation. The joint session is usually brief. Early in the project these sessions were longer but children did not talk much in front of their parents, and parents tended to use the time to complain about the child's behavior. Since the purpose of mediation is to move away from blaming, the extensive use of private sessions minimized the time devoted to public blaming. The private sessions, which gave the children time to express their concerns, are considered essential to using mediation for these families.

After the first joint session, the mediators hold a sequence of private sessions alternating between child and parent. In practice, the first private session is usually with the child to demonstrate that mediation includes him or her as an equal participant. After every session, joint and private, the mediators have a short recess while the family waits outside. At

this point, they plan for the next session and mark the transition. The case coordinator comes into the room and contributes advice and raises issues which the mediators should consider. This intervention is often helpful to most mediators but is sometimes distracting to others. The case coordinator, who has done the intake interviews and knows more about the family than the mediators, often interjects his or her priorities, interpretations, and solutions, even though he or she has not been present in the mediation session.

In the initial set of private sessions, the family tells the mediators more about the situation and the issues that emerged in the joint session and clarifies issues in which conflict exists. The mediators look for what each person hopes to get from the mediation and what each is willing to give. The later set of private sessions focus on identifying the negotiable issues more specifically and moving towards settlement. The mediators begin developing agreement points based on what family members say they want and will agree to do.

The mediation ends with a joint session with all the parties. If an agreement is reached, this session is used to read and sign the agreement and explain the role of the program staff in following-up after the mediation session. In almost half the agreements in the research cases (44%), there was a provision for a second mediation session, and in 77% of the sessions a second mediation session was suggested. But in only 26% (13) of these cases were there two sessions. One had three.

If an agreement is not reached, the mediators praise the family's efforts and suggest that they work with the program staff in finding another way to get help for their situation. In most cases, the participants seemed satisfied afterwards (the parents in 77% of the cases and the child in 73%).

In the 51 research cases, sessions typically had two (45%) or three (41%) participants (see Table 34), usually the child and mother (43%) or the child, mother, and father (23.5%) (see Table 35). The mother was present in 96% of the cases (49) and the father was present in 39% (20). The child was present in all cases except for one which involved a dispute between a mother and the school. Some of the cases included a more complex array of family members, including stepparents, boyfriends, and siblings. Two-thirds of the sessions were scheduled in the evening, one-fifth in the morning and the rest in the afternoon.

The program began using three mediators per session to follow the Scottish model, but experience quickly showed that using two was more workable. Most of the sessions (69%) had two mediators (see Table 36). In about half (49%) a chairperson was appointed. After some experience, the pattern of appointing a chairperson, adopted from the Scottish model, was abandoned as unhelpful.

Mediators typically began each session by introducing themselves, their role, and the process. As Table 37 indicates, they almost always explained the details of the procedure itself, frequently but less often emphasized that the process is

voluntary (76%) and that the agreement is up to the family (70%), and fairly often explained other basic features of their role, such as helping the family to explore and identify issues (62%). These statements reinforce the explanations provided by the case coordinators, so that in the follow-up interviews, 83% of the family members (71% of the children, 92% of the mothers and 88% of the fathers) were able to provide an explanation of mediation which accurately portrayed the process. Nevertheless, this was an understanding derived from the experience itself. Only about half understood the process beforehand. But they did go to mediation expecting help. When asked why they agreed to participate in mediation, an open-ended question, 45% of the children, 63% of the mothers, and 56% of the fathers said that they did so in order to get help.

The process typically consisted of two private sessions with the child and two with the parents and siblings, although as Table 38 indicates, there was some variation in this pattern. Most had only two joint sessions, an initial and a final one, and an average of 5 mediator recesses (see Table 39). The average session lasted 3 hours and 20 minutes, with a 22 minute initial joint session, private sessions with parents and with children which lasted between 20 and 30 minutes, and a final joint session which took 15 minutes. Mediator recesses took an average of 10 minutes each (see Table 40). In the early sessions, these recesses were rather long and consumed considerable time (an average of 50 minutes in a 3 hour and 20 minute session) but with experience, they became progressively shorter.

These statistics indicate that the process is one of shuttle diplomacy, with little direct communication between the parents and the children. Most of the time is spent in private sessions. One child, after several shuttles in and out of the mediation room, joked that the process felt like being in confession.

It is important to recognize that this format, with two private sessions with each party rather than a single private session with each party, commonly used in other mediation models, enhances the mediators' scope for negotiating and helps to equalize the bargaining power of the parties. The first session with each party provides a time to define the problem and offer possible solutions, while the second session with each party offers a time to exchange offers and counteroffers. When there is only a single private session with each party, the first person to have a private session makes demands, which are then presented to the second party to either accept or refuse. If the second party refuses or makes further demands, this requires another meeting with the first party. The format of four private sessions used by CHP gives both parties more room to negotiate and make demands, and favors the first party less that the two-session format does.

The Case Coordinator

The case coordinator - the staff person - is a vital part of the mediation process. It is difficult in practice to separate the impact of the mediation session itself from the intensive involvement of the coordinator since, in the experience of the families, they are intimately connected. Any assessment of the impact of mediation should recognize the combined contribution of the mediation session and the intensive casework by the staff. The case coordinator is closely involved in the case from intake until the end of the monitoring period. After the intake interviews, he or she assigns the mediator team. This is usually done about a week before the mediation takes place. The coordinator prepares the information sheet for the mediators, sets up the mediation room, greets the mediators who arrive a half hour before the family, and brings the family members into the mediation room. Case coordinators consult with the mediators during recesses and provide advice and information. For example, the mediators might ask the coordinator if there are alcoholism groups or opportunities for youth employment in the community. The case coordinators are quite active in the recesses. Fifty-nine percent of the family issues discussed in the recesses were brought up by the mediators and 41% by the case coordinators.

During private sessions, the coordinator will often sit and talk to the other member(s) not in the mediation room. This

discussion can reduce anxiety a family member has about the process or about waiting. Sometimes it helps the person use the following mediation session more productively.

After the mediation is over the case coordinator monitors the agreement for three months. He or she works with all the families (whether or not they reached an agreement) for whom social service referrals or coordination with school and other services are required. If a formal complaint had been filed in court, a form is sent to the court indicating whether the family came to mediation. If they came to an agreement, a copy is sent to the court.

Follow-up interviews of family members confirmed that the case coordinator plays a very important role in the process. Sixty percent of those interviewed after the mediation session indicated that the case coordinator was helpful. This was true for children as well as mothers: 66% of the children said he or she was helpful, in comparison to 64% of the mothers and 27% of the fathers. Family members described the case coordinator as helpful because he or she was supportive, a person to talk to, and a person who kept them informed. The case coordinators were integral to the families' perception of the process. When asked whether it was the mediation session, the case coordinator, or a combination which had been helpful to them, only 22% isolated the mediation session itself, the rest crediting either the case coordinator, outside circumstances, or a combination of these (see Table 41).

Case coordinators typically invest a great deal of time in each case, making 21 contacts with the family and 7 contacts with outside agencies for each family, on the average (see Table 42). The case coordinator usually took the initiative. Twenty-seven of the families never called the program. But most families had extensive contact with the case coordinator. Even in the sample of cases which did not come to mediation, the case coordinator contacted outside agencies in 79% of the cases and had meetings with the parents and the children in 90%. Considering this intensive involvement of the case coordinator, it is not surprising that in the follow-up interviews, many families said that the case coordinator was important to them. However, as the program became more established, and case load increased, this intensive involvement of the staff person was less possible.

The Mediators in the Sessions

We recorded the background characteristics of each of the mediators involved in the research cases in order to characterize the mediators the research families encountered. These statistics describe the mediators these families actually saw, not all the CHP mediators. The whole group is described in Chapter 8. In the following analysis, many mediators are counted more than once and others, who were not involved in the research cases, are not counted at all. This is a description of

mediators which incorporates the frequency with which they are used.

Two-thirds of the mediators in the research cases were women, almost all were white, and almost half were over 40 in those cases in which age was recorded (Tables 43, 44, 45). Of the five blacks, one was Haitian, and of the 101 whites, 3 were Portuguese. All but one had more than a high school education, in sharp contrast with the educational level of the families, as described in Chapter 3 (Table 46). Three-quarters had professional jobs, again quite different from the occupational profile of mediation families (Table 47). Two-thirds of the mediators had professional backgrounds in the human services (55%) or mediation (14%) (Table 48). About half were married or remarried, a third were single, and the rest were separated or divorced (Table 49). Their family patterns are again rather different from those of client families, with far more married and far fewer separated or divorced. Most of these mediators had some experience with mediation at the time of the session, with half having already performed one to five sessions and one-third over six (Table 50). Half of the mediators lived in Cambridge and 15% in Somerville. Overall, the mediators who handled these sessions were highly educated, professional, older, and experienced in the helping professions. They were, in these respects, far from the social peers of the families whose problems they handled (see Chapter 3).

The Families' Views of the Mediators

In general, parents and children are very positive about the mediators and their perception of their neutrality, helpfulness, and comprehensibility. When asked one month after the mediation session if the mediators were for or against them, half of the family members said they were neutral and one-third that they were "for all of us." Intriguingly, the children were much more likely to see the mediators as for them (18%) than the mothers (4%) or fathers (0) (see Table 51). Only 9% felt that the mediators thought that there was anyone to blame.* Clearly, the mediators are perceived as neutral by most, and insofar as there is perceived to be any bias, it is in favor of the children. Only 8% said that the mediators spoke in ways that were hard to understand, but this included 16% of the children, 2% of the mothers, and none of the fathers. When the family members were asked what they remembered about the mediators, the most common feature mentioned was their sex (by 80% to 90%), the age, by less than half, and their names, by about one-fifth.

Seventy-five percent of the family members knew they were volunteers (65% of children, 81% of mothers, and 82% of fathers), but only 43% said that they thought it was important that they were. Parents felt this way more often than children. Half the family members were asked if they thought that it was good that

* Of the four children who felt this way, 3 thought it was themselves and one the parent, and of the 6 parents who felt this way, five thought it was the parents and one thought both.

they were volunteers, and fully 91% said yes. Only 67% knew that the mediators were from the area, with the parents again recognizing this more fully than the children (57% of children, 75% of mothers, and 71% of fathers). This was viewed as important to only 19% of the family members. When asked whom they would have preferred as a mediator, few gave responses. Of those who did, a few children preferred a younger person or a man, a few mothers wanted a man, a younger person, a more knowledgeable person or a psychologist or psychiatrist, and a few fathers preferred a psychologist or psychiatrist, a parent, or a more knowledgeable person.

These responses indicate that family members do not think it is particularly important that their mediators be local volunteers. The children understand that the mediators are community volunteers less fully than their parents, but it is important to only a minority of both parents and children. The original theory of community mediation assumed that volunteers from the same area as the disputants would be their social equals and that mediation would provide a form of dispute settlement by one's peers rather than by professionals. Although the mediators live in the same city as the client families, they are not the social peers of the disputants in terms of education, professional employment, family status, income, and religion. Thus, the fact that families do not say that having a local volunteer is important does not test whether or not they would like a mediator who is a social peer. The responses to the

question on whom one might prefer as a mediator suggest that age, sex, and parenting experience are considered important qualifications and indicate a slight desire for a professional among some parents.

The Dynamics of the Mediation Session

The researcher observed all the mediation sessions in the research sample. After each observation, she categorized the style of the mediators according to 23 measures and the level of family participation and mood according to 22 measures. The summary of this information, presented in Tables 52 and 53, provides a detailed view of the nature of the mediators' and the family members' participation and activity throughout a mediation hearing. Each segment of the mediation process is treated individually, so that the information describes the dominant style of mediators and family members in each public and private session. The observer noted whether each form of behavior occurred never, sometimes, or often within that segment of the whole hearing. The mediators' behavior in each segment is added together.

Mediators are generally encouraging, non-directive, sympathetic, clear in speaking, positive in their body language, and talkative (Table 52). They rarely interrogate, demand, act sarcastic or contemptuous, blame parent or child, seem shocked or

indignant, threaten, interrupt, or use negative body language. They spend a lot of time gathering information and clarifying and defining this information as they seek to pin down the issues which the family is to work on. The mediators attempt to persuade the parties to get along better in only one-third of the cases and seem to be "preachy", giving advice heavily, in only 15%.

Joint and private sessions differ in a few interesting ways. Mediators are more likely to refer to positive aspects of the child in the private sessions. It is primarily in private sessions that they offer advice to parents and children about how to handle each other. Private sessions are also the time for exploring options and suggesting counseling. Joint sessions, in contrast, are more often devoted to arguments and criticisms between parents and children. It is in private sessions that family members develop specific proposals for dealing with these arguments.

Observations of family participation and mood, presented in Table 53, show that mediation sessions are typically supportive experiences. Family members are rarely silent or give only yes/no answers. They often answer questions and elaborate or explain. Family members rarely cry, show anger, express opposition verbally, appear anxious or nervous, seem bored or disinterested, defensive, rigid, or sad. They are usually cooperative and agreeable, but do not often ask questions or disagree or interrupt.

Family members participate differently in joint and private sessions. They are more likely to be angry and less likely to cooperate in joint sessions and more likely to offer suggestions in private sessions. Children, in particular, participate more in private than joint sessions. They are much more likely to be withdrawn, silent, or not interested in joint sessions and more likely to ask questions, make suggestions, elaborate and explain, and feel comfortable in private sessions. Children are more attentive, interested, and cooperative in private than joint sessions, a difference which is much less marked for parents. Forty percent of the time children are sometimes or often withdrawn and passive in the joint session but almost never in the private session. The private session seems to be crucial in involving the child in the process. Since these cases typically involve complaints by parents about their children's behavior, the joint session tends to be an opportunity for parents to complain about their children. Children typically respond by withdrawing or arguing, but in the private session they have the opportunity to describe their view of the situation as they see it and, it appears, typically become more engaged in the process. In this kind of conflict, it may be essential to hold a private session for the child in order to allow him or her to express his perspective fully.

Furthermore, it is primarily in the private session that children bring up issues. Table 54, which compares who brought up the issues in the mediation session by joint and private

sessions, indicates that the parents bring up the bulk of the issues discussed in the public session (67%) while the child raises only 17%. In the private session, the child has a more significant input, raising 29% of the issues, although parents continue to raise more. Children are twice as likely to raise issues in the private sessions as in the public sessions. Again, the private sessions seem crucial to giving the child a voice in the mediation process. The joint sessions replicate the power differential between parents and children, while the private session format appears to contribute to overcoming the differences between the relative power of the parents and the children.

Agreements

Agreements were reached in 84% of the cases (43 of 51). Cases often failed to reach agreements because the conflicts were caused by factors outside the control of the parties. For example, one case involved a boy who ran away from home. He had been fighting with his brother since his mother went back to school and took an evening job instead of her 8-to-4 job, leaving the children without her presence in the evening. The mother did not want to give up her job which was necessary to support her mother as well as her family. The session failed to reach an agreement because the mother was tired of having her children

fight all the time and she was not interested in negotiating any arrangement by which the boy could return home, such as changing her working hours.

When families fail to reach agreements, they do not generally blame the mediators. Ninety-six percent of all interviewed one month later felt that the mediators did everything they could to bring about an agreement.

Agreements typically consist of detailed statements about how families will arrange problems of curfews, chores, staying out late, the child's social life, and school attendance. These agreements are written by the mediators and signed by all the participants, then given to the families to take home. One month after the session, 74% of the participants interviewed said that they still had their copy of the agreement, suggesting that it was important enough to them to save. Agreements are typically described as balanced and fair in follow-up interviews. One month after the session, 84% of the children, 93% of mothers, and 100% of fathers said the agreements were fair, and 75% of the children, 84% of the mothers, and 100% of the fathers felt that the agreements contained things for all of them to do.

When asked in an open-ended question why they had signed the agreement, 35% of all participants said because the agreement made sense, 17% said to pacify others, 12% said it was fair, and 2% felt coerced. After dividing the reasons given into those which are positive (it was fair, it made sense, it was a good reasonable agreement, it covered the necessary issues, and I got

what I wanted) and those which are not so positive (it was late, it was a start, I had to do something about the situation, the other person liked it, I felt coerced, or I don't know), 43% said they signed for positive reasons. More of the children (57%) gave positive reasons than parents (36%). Parents of younger children more often gave positive reasons than those of older children, as did parents of boys and parents of stubborn children. Parents of truant children were least likely to give positive reasons. Agreements appear to be helpful to family members when the conflict concerns family dynamics in relationships in which communication had been relatively poor (ie, with younger boys.) Children who say they signed for positive reasons are significantly more likely to say that there is less arguing and fighting in the family now than those who said they signed for other reasons.

Families are less likely to report that the specific features of the agreement are working than that the agreement was overall helpful (see Table 55). Sixty-one percent (63% of children, 63% of mothers, and 73% of fathers) said that they felt that the agreement helped the overall family situation, while only 47% of all respondents said the agreement was working. Intriguingly, children are much more likely to say the agreement is working (57%) than mothers (39%) who tend to see it as working only partially. About one-third of both parents and children say the agreement is not working. Very few parents or children say it is the parent alone who is breaking the agreement (2% of

parents say this and 7% of children), while 28% of children, 55% of mothers, and 36% of fathers feel that it is the child alone who breaks it. The rest feel that some combination is at fault. Clearly, the children perceive their performance more favorably than their parents do.

Several months after the mediation session, the pattern seems to be similar. The process itself seems to be viewed as more helpful than the specific points of the agreement (see Table 56). When those who had reached agreements were interviewed six to eight months later, half still said that they followed the agreement but most could not point to any particularly helpful agreement point. About three-quarters continued to feel that the agreement had helped the overall family situation. It seems that the process itself, rather than the specific points of the agreement, makes the central contribution to improving or ameliorating family conflict situations.

CHAPTER 6

THE MEDIATION PROCESS II: TEACHING FAMILIES TO NEGOTIATE

The mediation process used at the Children's Hearings Project is fundamentally the negotiation of concrete details of daily life. Its goal is a contract between the parties, which all agree with, enforced by voluntary commitment to its terms. The process assumes that family members will be more willing to go along with a contract they have constructed than with one imposed by an outside authority. Further it assumes that compliance with minor points increases trust between parents and children and facilitates negotiation on larger issues in the future. Finally it assumes that the ability to negotiate depends on coming to see behavior more sympathetically. One of the most important strategies mediators use to construct these contracts is to transmit positive statements back and forth between parents and children. They seek to show parents and children one

another's situation, the pressures on each, and the reasons each behaves as he or she does.

The agreed-upon standards of family life which constitute an agreement often refer largely to the behavior of the children, yet they constrain both parents and children. They simultaneously set limits for children's behavior and restrict the areas of complaint and punishment for parents. Sometimes the creation of mutual standards provides children more freedom since the limits of their behavior are clearly understood. The very fact of requiring parents to negotiate rules with their children provides children more input into the creation of rules than they have under a regime of authoritarian command. Further, the mediators try to avoid concessions from either side which they do not feel are realistic and which will probably be broken. For example, when one girl quickly agreed to stop seeing her girlfriend altogether as her mother wanted, the mediators did not approve this suggestion. They thought that this agreement was not realistic and proposed instead to develop rules about how often and where she would see this friend. When the mother balked at this suggestion, the mediators pointed out, "When you make a really firm rule and she says she'll do it, it leaves room for her to sneak." The agreement to the session specified only a curfew, rules about checking in, the importance of the mother and daughter spending time together, and a plan to talk to the case coordinator about counseling. It did not prohibit the girl from seeing her girlfriend.

Negotiation of shared standards for family life differs from the disciplinary strategies previously used by many of the families. In about half of the families, the parents expect obedience simply because they are parents. When the children disobey, they punish severely. The children often become rebellious, particularly when they are part of a peer social group which has very different standards of behavior than their parents do.

One case illustrates the authoritarian approach some parents take toward disciplining their children. In this case, the boy was running away from home. The father took out a CHINS complaint against him because he was running away. In mediation, the father complained that his son refused to abide by the rules. When one of the mediators asked him what the rules of the house were, the father replied, "He does what he is told." When the mediators asked the boy why he was in mediation and what he hoped to accomplish, the boy responded that he had run away because he wanted to be free for a while. He wanted to go out more, watch more TV, and not do so many jobs.

In other families, the parents may have been very lenient with their children while they were younger, and now find that they are unable to control increasingly independent and mobile teenagers. This is a common problem for working single mothers who often lack the time or energy to impose discipline.

Mediation does not probe deeply into feelings or the dynamics of family relationships, but focuses on more specific

and narrower problems. For example, in one of two mediation sessions involving a girl who was running away from home, the entire session was devoted to a discussion of who was to do which chores, including changing the cat box and feeding the cat. The girl and her sister had lived for years with their mother. Recently, they left her to move in with their father. All three were trying to adjust to living together. The detailed arrangements of daily life, including the father's responsibility to do some of the chores, turned out to be the core of the family's conflict, and thus became the focus of one of the mediation sessions. In another session they discussed school problems.

More emotional issues are consistently referred to counseling. The option of using counseling was raised in 42% of the private sessions and was incorporated into the agreement in 27% of the cases. The economic and social issues surrounding the family problems, such as lack of money, overcrowded housing and the very significant strains on time and energy experienced by a single working mother, are acknowledged, but do not become the subject of negotiation. Rather, they are discussed as the pressures on parents and children which help to explain their situation and their actions.

A critically important aspect of this process is that it allows the family members to define the problem. Mediators usually begin a session by asking, "What do you want to work on?" They are almost always patient and listen carefully to what the

families say. A comparison of the issues raised at intake and those included in the final agreement shows that the basic problems the family was concerned about, such as curfews, chores, school attendance, and the child's social life, are still present in the agreement (compare Table 57 and 58).

However, issues which represent complaints about a child's behavior (such as her foul language or drinking) do not appear in the agreement. Instead, the agreement focuses on solutions to these problems. For example, it will include rules about communication, counseling, or a second mediation session when the initial complaint concerns bad attitude and foul language. The mediators handle those issues which they have found through experience are amenable to negotiation, such as curfews and chores, and steer away from those which are emotionally too highly charged or those which involve economic and housing problems about which a discussion between parents and children can do very little.

Mediators typically make indirect suggestions. They first ask parents and children for ideas about how they could reorganize their family life to deal with the specific problems they have described. If none are forthcoming, they will begin to make specific proposals, such as, "How about a 9:30 curfew?" Or, "Would you feel better if he checked in before going out at night?" Or, "Could you specify that if she is going to be out of the area, she will let you know?" The mediators often offer ideas about specific arrangements which they know have worked in other families.

But the families perceive that they, rather than the mediators, have constructed the agreement. In the one-month follow-up interviews, only one-tenth of the children and one-fifth of the parents thought the mediators came up with the agreement points in their contract by themselves. The rest thought that they themselves had proposed the points or that they had been suggested by other family members or some combination of the family and the mediators (Table 59). The researcher's observations of the sessions on the other hand, indicate that almost half (47%) of the ideas in the agreements were brought up by the mediators, 19% by the child, 30% by the parents, and 4% by outside participants. In essence, the family members define the problems and the mediators propose solutions. Yet, the families do not generally find these suggestions coercive or unwelcome. Only 12% of the 114 parents and children interviewed said that they thought the mediators put pressure on them or anyone else to accept an agreement or parts of an agreement.

Mediation teaches families to use negotiation by demonstration and practice, not by explicit instruction. In the session families see how negotiation can be applied to their own situation. As the mediators ask the family members to think about what it is they really want and what kinds of solutions they could suggest, they encourage family members to break general complaints down into specific forms of behavior which are annoying and which could possibly be changed. The mediators do not give a great deal of advice about talking rather than

arguing, but they provide an example of talking. They show how conflict can be handled by compromising on specific demands.

However, this is not a process which the family carries out through face-to-face discussion. Rather, it is done almost entirely through shuttle diplomacy, with the mediators carrying messages back and forth and often packaging proposals with statements such as, "Your mother thinks you are doing well", or,"We appreciate that you are working hard on this." Thus, although it demonstrates a procedure which can be replicated by families, it does not provide them with the experience of doing so without the very active intervention of the mediators.

A Mediation Case

To illustrate the nature of this process, we will describe one case in detail. A 14-year-old girl was referred by the school to the CHP because she was a stubborn child, beyond the control of her parents. Her father, a short-order cook, worked two jobs but earned under $11,000 a year. The mother did not work. Her parents complained at intake that since she has entered high school, she has had an attitude change. She talks back and they fight constantly. She stays out late, talks on the phone all the time, refuses to do any chores in the house, and always wants to spend money. The girl, at intake, said that she is unhappy about chores, about her lack of freedom, about her

mother's telling her how to dress and what music to listen to, and about her inability to talk on the phone. In the joint session, the father complained that his daughter does not listen to him and that he is breaking his back to feed his family. The mother said she was unhappy about one of her daughter's girlfriends and feels that her daughter is becoming a follower to this girl.

In the private session with the daughter, the mediator asked the girl what was bothering her. She replied that she was treated like a baby and that her father was very strict with her if she comes in even a minute late. When asked if this might have something to do with her girlfriend, the girl assented, but denied that she was a follower. One of the mediators queried, "If we were going to write some rules for everyone in the house, what could we work out that might work? Let's start with the phone. What would be reasonable?" The girl suggested that she have more than the 15 minutes she is now allotted. She pointed out that a call-waiting service would help, but acknowledged that at $3 or $4 a month, it was too expensive. One mediator then asked her for suggestions about curfews at night, both during the week and on the weekend. She suggested 9:30 P.M. Then they asked her what chores she does and how that works out.

In the private session with the mother, the mediators began by observing that the daughter is a good child. They asked her who does which chores in the house, how the children are punished if they fail to do them, and what her perspective is on the phone

and curfew situations. They probed for her ideas about what the problem is, what she would like to see changed, and what kinds of solutions she could suggest. The mother responded that she would like her daughter to stop "mouthing off," that her disrespect drives her crazy, and that she would like her to talk out her problems with her father. One mediator queried, "Can he do that?" The mother confessed that it is hard, because he always yells. The mediator summed up, "It looks to me as if there are three major issues: the phone, going out, and how you deal with each other." He told the mother, as he had told the daughter, "It is necessary to work out rules about what chores are the daughter's, when she is to do them, and when she can use the phone." He then pressed the mother to be specific about the chores the girl is expected to do and when she should do them. The mediators suggested a half hour as a reasonable time on the phone, and the mother agreed. Then they worked out a few more details about the curfew. At the end of the private session with the mother, the mother described how much her daughter likes school, and the mediators commented on how lucky she was.

In a private session with both the father and the mother, the mediators presented the need for an arrangement which makes it clear to the daughter what she has to do and when, and suggested that at her age, talking is very important and that people should try not to yell at each other. One mediator commented, "It's better to talk than to yell." Another mediator added," If you both try, it just might work."

Calling the daughter back in, the mediators explained the proposal for chores and for talking on the phone: she can talk on the phone for a half hour but not for more than three-quarters of every hour. They commented that the mother seems to appreciate that her daughter is an incredibly thoughtful person and that she realizes she is not a follower. The girl, smiling, said she would try to go along with the agreement, adding, "It sounds good." In the final public or joint session, both the mother and the father also agreed that it sounded good. The agreement stated:

1. The child will do her chores within one hour,
2. The mother will discuss errands with her as soon as she comes home,
3. The child agrees to the limit on phone calls,
4. The child will not be on the street after dark without prior arrangements with her mother,
5. The child can be elsewhere after dark if her mother has the phone number and she has a ride there,
6. The child will remove her laundry promptly from the dryer.

All three left the mediation session smiling and appreciative. The mediation had lasted for 3 hours and 15 minutes. At the follow-up interview, the daughter said that the mediation session had helped for a while, but that they were now back to fighting again. Her mother, however, said that she felt that the session had been fair and had helped her deal with her child.

In this mediation, as is typical of most mediation sessions, the family defined the issues of central concern to them. These served as the basis for the discussion and agreement. Some issues were sidestepped, either because they involved more

in-depth intervention into family relationships (e.g. the friction between the daughter and the father), or because the program staff viewed them as non-negotiable (e.g. giving up friends the parents dislike). The program staff had discovered that adolescents are generally not willing to make or go along with agreements about giving up friends. Nor did the mediators attempt to deal with the financial problems of the family, such as the fact that the father does not earn enough money to satisfy his daughter's tastes for records, pizza, and her own phone. More money might have helped some aspects of the problem, perhaps allowing the daughter to have her own phone or a call-waiting service. The dominant strategy of this session, typical of most, was to focus on specific areas of conflict and to create guidelines for behavior which both parents and children could accept.

This case demonstrates the underlying theory of family functioning which structures the CHP mediation process: young people need to have structure in their lives, to have limits set for acceptable behavior and to have those limits clearly and consistently enforced. Parents and children need to create this structure together and follow it consistently. Case coordinators will often remind the mediators during recesses that a child needs limit setting, structure, or rules.

COMPARISON WITH COURT AND COUNSELING

Mediation is neither court nor counseling. It does very different things from either of these two processes. It does not replace them but complements what they provide. Mediators make suggestions, narrow problems, elicit feelings and information, try to explain each side to the other, and give advice, but they do not make authoritarian demands of a child or family as the court does, nor do they attempt to restructure the emotional dynamics of family life as therapy does. Suggestions and advice are always offered in oblique ways, such as, "How about trying this for a while..." "How would it be if..." "Sometimes people try this...". The process is in many ways manipulative, but it is not coercive.

The process is fundamentally different from court in that it is founded on consent, not command (McEwen and Maiman 1984). The consent occurs within many constraints: the need to find some way to get along, to live within shared resources, and to obey laws about school attendance. But it is still a fundamentally different approach to changing behavior from the use of authority and orders. An example of the way mediators deal with a child who drinks illustrates their efforts to develop consent. A 14 year-old boy claimed he drank a case of beer six nights a week but denied that his drinking was a problem. He claimed he could stop drinking if he wanted to, even for three weeks. One of the mediators said:

> "We see a pattern which could be a long-term one, and possibly serious. We understand how you feel: drinking is fun and you do not think it is serious, but the problem is you get to a point when you can't stop. We would like to know if you would like to talk to somebody, perhaps in Alcoholics Anonymous? It is not just your mother who thinks this is a problem. It is a serious problem, and sooner or later you have to get help."

The mediators took him up on his offer of three dry weeks and agreed to hold another session in three weeks. He agreed not to drink until then. Meanwhile, they urged him to talk to someone at the court's counseling service. Another mediator concluded:

> "You've really put a lot of effort into this, which is great because that is the only way that it will work."

Thus, the mediators do not command but seek to build on the motivations and interests which they can uncover. For example, in the same case, one of the mediators said:

> "One of the things both you and your mother want is for you to pass school. She (your mother) thinks you have the talent to do it. So if you will work, you could go to the school you want to and play basketball too."

The mediators' strategy is to point out the consequences of actions, not to make direct statements about what society expects of its members.

Afterwards one mother described the process:

> "It's like a board of people who have been trained, who listen to both of you and try to bring it together and compromise. They didn't take my authority away."

In contrast, when she filed a case in court, she felt that she had no more say and that her authority had been stripped from her:

> "You take out a complaint, yet you don't have any say in the courtroom. It is not small and caring, like mediation. In court, you feel like, oh, here comes another case."

In the same case the son described the mediation process as "awesome and massive." Chapter 9 compares the mediation process with the court in more detail.

Nor is mediation like counseling. It is by and large focused on communication and bargaining about specific points rather than the exploration of feelings. The mediators recognize feelings and sympathize but they do not try to probe into or to restructure relationships. The families, not a counselor, define the issues and problems under discussion.

Mediators recognize the limitations of negotiated contracts for settling problems involving deep emotions and intimate relationships. Mediation frequently steers families toward further counseling, particularly for complex emotional issues and intractable problems such as alcoholism. For example, in a case involving a girl who overslept and consistently failed to arrive in school on time, they began by asking her to talk about a typical day and describe what she did. They felt it was important to focus on getting her to school, not on the fact that her mother was working three jobs simultaneously and unable to spend much time with her daughter. Issues which can be translated into concrete behavorial demands are negotiated while others are postponed, narrowed, sidestepped, or referred to counseling. One-third of the families interviewed later recalled

that the mediators had suggested counseling to them during the mediation session. Thus, mediation is not a replacement for counseling, but a very different kind of an intervention.

These families are no strangers to counseling. Almost half (44%) of the parents had already tried counseling, and after the session, 65% of the parents thought that the family needed counseling (Table 60). Sixty percent of these parents felt that it was the child who needed it, however, and only 19% thought that they themselves were in need (Table 61). Fewer children thought that the family needed counseling (only 22%), and of these, only a third thought that the counseling was necessary only for themselves alone.

Mediation tends to increase or maintain rather than decrease the use of services. As Table 62 indicates, half the families used more or different social services after the mediation. Only 10% of the families stopped using social services who had used them before the mediation, while one quarter of the families began using services who had not done so before the mediation session. Fifty-seven percent of the families had not used services in the past, 28% did not use them at the time of intake, and 41% did not use them after mediation (Table 63). The average number of agencies used per family increased, however (Table 63). Thus, the mediation process does not usually pull families away from using social services but channels them into continuing to use them or into using different ones. Mediation does not replace services: instead, services serve as an important complement to mediation.

THE PROBLEM OF COERCION AND UNEQUAL POWER

Two of the major objections raised about the use of mediation for status offenders are that it is coercive and that it involves parties of clearly unequal power. These problems are related, since the more unequal the parties, the more serious is the injustice of binding them to an agreement arrived at by negotiation. This research study indicates that the CHP process is not viewed as coercive by most participants. Further, the program has devised strategies to counteract to some extent the unequal power of parents and children.

The responses to the one-month follow-up interview show that most participants understand that mediation is a voluntary process and that it is separate from the court. Parents understood this more clearly than children. Ninety-two percent of the mothers and 94% of the fathers said that they had a choice about whether or not to go to mediation. Only 61% of the children felt that they had a choice, but 22% said that they had to go because their parents (not the court) made them go. Seven children, three mothers, and one father thought they had no choice. Half the children, two-thirds of the mothers, and over half the fathers said they went to mediation in order to get help.

Only 16% of the children, 31% of the mothers, and 18% of the fathers said that they expected to go back to court if they did

not settle in mediation. Very few (6% of the children, 6% of the mothers, and none of the fathers) expected that the child would be placed in a residential facility if they failed to reach an agreement. Since the mothers initiated the complaint in half of the cases which came from the court, the higher percentage of mothers expecting to return to court indicates their intention to pursue the complaint if mediation fails. When asked, "Do you think the judge can enforce your mediation agreement?" about half the children and one-third of the parents thought that he or she could (see Table 64). However, judges rarely attempt to enforce the agreement. Among the 10 mothers and 10 children interviewed several months after their mediation session who had returned to court, only 2 mothers said that the judge had said anything about their mediation agreement. Observations of mediated cases which return to court confirm that judges sometimes mention that an agreement was reached, but rarely look at the agreement itself or make any effort to enforce it, despite having been sent a copy. Since few of these cases were automatically dismissed by the court, most did return for further judicial oversight. The expectation that the judge will enforce the agreement seems logical since the case will probably return to court after mediation and the judge will have a copy of the agreement.

When parents and children are asked what will happen if they break the agreement, however, only one of the children and none of the parents said that they would go back to court. Nor did

the families often report feeling pressure from the mediators to settle. Ten percent of the children, 13% of the mothers, and 18% of the fathers said that they felt pressured to settle. Clearly, parents and children see that mediation is part of a process in which the court is involved in a continuing, supervisory role, but they rarely feel that the court has forced them to go to mediation, that they have been pressured to arrive at a settlement, and that if they fail to settle or break the agreement they must go back to court.

The process and dynamics data presented in Chapter 5 indicate that the format of mediation used by the CHP provides children an opportunity to voice their concerns and issues. The extensive use of private sessions and the preference for giving the young person the first private session are two features of procedure which contribute to the young person's power. Children describe the process as fair and balanced almost as often as their parents do (see Chapter 5) and describe themselves as pressured to settle less often than their parents do. Most say that they thought that the mediators were neutral, but of those who felt that the mediators favored one side, children were more likely than parents to think that the mediators were for them. Few felt that the mediators blamed them, but parents more often felt blamed than children.

As discussed in Chapter 7, children are slightly more likely to say that mediation is a good process and that the agreement is working than their parents are. The expectation

that children and parents are to negotiate rules together automatically equalizes them to some extent. Yet, the bulk of agreements focus on what children should do, and there is little discussion of the extent of parents' responsibility.

In the course of establishing clear guidelines for family life, the mediators sometimes press the parents to be more lenient than they had been. In one case, for example, the mediators stressed to the child that they had bargained for him and gotten more than his parents wanted to give. In another case, the mother was grounding her son for one week for each day he missed school, and the mediators persuaded her to reduce this to four days per skip. As she signed the agreement, she said, "I feel like I'm signing my life away." One mother who did not want her daughter to see a friend at all ended up agreeing to have the friend come and visit at her home. In the case of a girl not going to school whose mother referred to her as a "street kid" and whose father thought that her boyfriend was a "punk", the father was induced to buy her a coveted pair of high-heeled shoes and to consider doing some of the chores in the family. He responded, "I'm never going to win. First high-heeled shoes and now chores. What else?"

The unique background and sponsorship of the CHP made the program particularly sensitive to the rights of children. The CHP was initially sponsored by a child advocacy program and most of the staff are people with experience and interest in working with adolescents. Many of the mediators also have professional

experience in working with young people. The program began on the assumption that youths were not being well-handled in the court process, and much of the program's organization and structure is devoted to giving young people more control over the process. The overall approach of rule-making often gives these young people more freedom by setting limits within which they have autonomy, particularly since mediators are anxious to avoid rules which they think the children will break. Because of this philosophy, they sometimes put pressure on parents to give more freedom to their teenagers and to circumscribe their efforts to control them. Because of the child advocacy philosophy of the CHP and its staff, the young people feel that they have a voice and are fairly treated. However, a program without this philosophy and staff orientation could do far less well. Mediation is a powerful and manipulative process and it could be very different.

THE ISSUES IN MEDIATION

The major issues which families bring to mediation concern school, friends, and the organization of family life. At the time of intake, the case coordinator asks each participant in the session what he or she thinks the issues are. A summation of all the issues raised in these 51 cases by both parents and children

shows that the four most common problems are curfews (raised in 61% of the cases), truancy (45%), choice of friends (45%), and chores (41%) (Table 57). In other words, conflicts typically center on the child's school attendance, the parents' desire to restrict or control his or her social life, and his or her behavior at home, including responsibilities and attitudes. Table 65 lists the entire range of issues raised at intake and gives the percent of cases in which each issue was raised.

The range of issues involved in these family conflicts is broad, but many deal with the allocation of work within the family. To some extent, mediation can be viewed as a kind of role-bargaining, in which the distribution of responsibilities between parents and children is discussed and negotiated. Only a few of these families have two parents in the home of whom only one works. In most, there is either a single parent, often working, two working parents, or a parent and stepparent or friend. These family situations demand reallocation of tasks in the home, particularly as a child reaches adolescence and is able to undertake more responsibilities. The fact that much of the discussion in the CHP focuses on the rearrangement of domestic tasks reflects the social reality of these families.

An examination of the issues raised at intake suggests that there are some differences by the sex of the teenager, his or her age, birth order, family situation, and type of CHINS. Issues of how parents control the teenager, social life, and family dynamics, including sibling problems, are most common for boys,

while issues about social life, curfews, and patterns of getting and spending money are most common for girls. Curfews and social life are common issues for older and younger children, but younger children have more frequent school-related problems while older children's issues concern emerging autonomy: the teenager's working, allowance, and concerns with money and clothes, his or her privacy, privileges of television or phone use, and patterns of drinking or drug use.

Issues which are particularly common among teenagers in single-parent families are social life, curfews, money, and how the parent controls the teenager. Those most common in two-parent families are the teenager's social life, attitude, curfew, and TV and phone privileges, and those most common in families with a parent and other person present are family dynamics, social life, and chores. These differences suggest that different family situations lead to somewhat different kinds of stresses: in the single-parent family, insufficient time and money, in the two-parent family, a child rebelling against the control of his or her parents, and in a parent-plus-other family, difficulties centering around the incorporation of a different person into the family.

Finally, issues differ by CHINS type. The most common problems in truancy CHINS are school problems and the teenagers' social life. In runaway cases, the problems are most commonly curfews, the teenager's social life, and issues about who is to control the teenager. For stubborn CHINS, the most common issues

are his or her social life and family dynamics. These differences suggest that truants are not generally involved in family conflict as the other two types of CHINS are, and that complex family dynamics are particularly central to teenagers labeled stubborn.

A comparison of the issues raised in agreements with those mentioned at intake reveals that they are the same as those the families brought to the program, but there has been an increase in specific guidelines and a decrease in complaints, particularly about the teenager's social life (Table 66). Curfews, chores, and truancy remain the central issues, but the concern with the teenager's social life has been replaced by guidelines about checking in when late and friends' visiting. As Table 66 indicates, issues such as lying, the child's bad attitude, choice of friends, the child's alcohol or drug use, and where the child goes do not appear in agreements, while rules about checking in, friends' visiting, after-school activities, and telephone use do. The issues have become more concrete, focusing on specific behavior rather than general attitudes or styles of interaction, such as the adolescent's foul language or general attitude. Those issues which involved complaints about the other person's behavior have dropped off to be replaced by guidelines about how to handle the arenas of conflict those complaints reflect. In addition, there are provisions for continuing assistance through counseling and second mediation sessions. Overall, the discussion has moved from complaints to solutions.

For example, parents' complaints about the kinds of friends their child has, labeled "tramp", "punk", and so on, are converted into rules of behavior. When a mother complains about the influence her daughter's new friend has on her, for example, the mediators will ask, "What is it that you are really worried about?" "Would you be happy if your child called you to tell you where he or she is and where he or she is going to go?" Often, the families will take this offer. It does not really provide what they are looking for, which is the separation of their child from another teenager whom they feel is a bad influence, but they are persuaded that this is the best they can do. Thus, in a subtle way, the process provides more freedom for the child by allowing him to maintain his or her friendship at the expense of periodic phone calls. It may in fact address the real concerns of parents as well who are trying to adjust to the increasing independence and absence from the home of their teenager who is becoming more involved in his own social world.

Forty percent of the agreements were holding and 20% partially holding at the end of the monitoring period according to program records (Table 67). In the one-month follow-up, parents and teenagers were asked which agreement points had been broken. Not surprisingly, the most frequently broken point commonly found in agreements is truancy. Intriguingly, fifty percent of the mothers who had this point in the agreement reported it broken, but only 22% of the teenagers reported it broken (Table 68). They seem to have interpreted this point

differently. About one-third of the curfew points were reported broken and about the same proportion of chores points, although parents and teenagers again disagree about how often the chores points were broken. Other common agreement points are reported broken far less often. Checking in, for example, was an agreement point in 44% of the agreements but mothers report it broken in only 15% of the cases and teenagers in only 5%. Agreements about the young person's privacy, extracurricular activities, and parents and children spending time together seem similarly successful. Although no one reported breaking the agreement to have a second mediation session, this point appeared in 44% of the agreements yet only 27% of the research families had more than one session. It appears that school issues, which are often the central problems which have brought a family to court, are more difficult to handle through mediation between parents and children than the arrangements of family life, in which the agreements appear to be more effective.

A comparison of issues raised in joint sessions and in private sessions in the mediations, recorded by the researcher, shows again the very different quality of the discussion in the two phases of the mediation process (Table 69; see Chapter 5). The issues brought up more commonly in the joint sessions, i.e., truancy, running away, the teenager's bad attitude, and the teenager's use of drugs and alcohol, reflect the parents' complaints about their children's behavior. Those brought up more often in the private sessions, on the other hand, focus on

ways of dealing with these problems through counseling, spending time together, and understanding these problems in the light of other family problems and the children's needs. School programs, curfews, and chores appear in both public and private sessions. The private sessions seem to facilitate the transition from complaints to guidelines for action.

CHAPTER 7

THE FAMILIES' PERSPECTIVE

The families' assessment of the mediation experience and its impact on them is based on interviews conducted with all family members about one month after the mediation session (discussed in research section, Chapter 1). The interview was conducted in person, usually in the person's home, and lasted between 45 minutes to an hour and a half. The questions were designed to determine how the person understood the process and to what extent he or she viewed it as distinct from the court. Several questions invited the respondent to compare mediation to the court. It examined the impact on family relationships and family conflict. Between six and eight months later, as many family members as possible were interviewed again, but because many had moved or were unable to be located, the number interviewed was far smaller. One hundred and fourteen family members were

interviewed after one month and forty-four were contacted for the later follow-up interview.

OVERALL MEASURES OF SATISFACTION

In general, participants expressed high levels of enthusiasm for the process, but they were more often enthusiastic about the process itself than about its impact on their family's functioning. The research indicates that for the large majority of families, the idea of negotiating family conflict is very attractive and the social experience provided by the Childrens' Hearings Project (CHP) quite positive. Two-thirds of the family members interviewed felt that the process was a good one (63%). Several others felt that the process had some good and some bad characteristics (26%) and only 10% said it was a bad process. Children and parents felt equally positive.

Parents and children were asked to describe the mediation process in the follow-up interview. The following statements give a sense of what they thought of it. These comments are derived from interview notes and are not direct quotes. Each pair of parent/child comments comes from a single family.

> (Parent A) Everyone sits down in the beginning and outlines their [sic] position. They all leave and go back depending on what the mediators think is best. They alternate seeing the son and parents together. This resulted in a workable contract but

took a long time. It's a worthwhile experience. It was good for A to get a chance to feel he was being listened to and getting concessions.

(Child A) They call you and your parents in and talk to you. You write out a contract of what you're supposed to do and what your parents will let you do.

(Parent B) It was rewarding. The mediators were sounding boards for me. They didn't give me as much as I brought out myself.

(Child B) It was interesting. It was the first time I got listened to in seven years and talked to people about feelings and things.

(Parent C) These are people who aren't involved that can look at both sides and give suggestions and even if they disagree with you, they understand.

(Child C) It wasn't that complicated, just a bunch of people asking questions. They weren't nosy, just trying to help you.

(Parent D) It was people listening to each side's point of view and coming to some type of agreement. You sit down in front of an impartial group of people, tell your story, put a scope on it and try to come together so there's an agreement.

(Child D) You go in alone, or with your parents, and then have a meeting with everyone.

(Parent E) It let me express myself, made me feel good. It gets everybody together.

(Child E) There is just a lot of talking going on, explaining stuff. You try to work out problems.

(Parent F) There is somebody sitting before a panel. There are people telling their story and all decisions are made by the child and the parent.

(Child F) You discuss problems. You have mediators who don't take sides. You're not telling your mother what you want, but somebody else in a calmer way. This avoids screaming and yelling between parent and child.

(Parent G) It is a process where people listen and inquire and they don't come out with a solution. It gave us a better understanding of how to look at problems and how to approach them.

(Child G) You go in a room with mediators and they'll discuss your problems. Not like a jury, they don't judge you. They ask questions and try to make an agreement.

(Parent H) It is a process of helping people agree on the basic things in life, so you can work on your situation. They make it a lot better than the courts are making it.

(Child H) It is similar to going to a counselor. They try to work out problems between you and another person. Here, though, you can get something out of it - in counseling you can only tell them your problems.

(Parent I) I thought it would be like counseling for kids. You come to an agreement and compromise. It was a bargaining process, not at all one-sided.

(Child I) There was just a guidance counselor helping out, making agreements, asking us questions about what is happening and making agreements on what to do, like counseling.

(Parent J) It was two people trying to have us agree on certain things. But it didn't always work out. They helped us to understand that she is grown up.

(Child J) They said we'd be going there, talking for 4 hours to see if we could compromise so we wouldn't have to go to court. It is a place to go with parents where you can talk out a compromise on things.

Two-thirds said that they did not want mediation to be any different-- 69% of children, 65% of mothers, and 53% of fathers. The most commonly desired change was that the sessions be shorter, mentioned by 39 - one-third of those who wanted something different. A few wanted more joint sessions, a few different mediators and a few different issues or a firmer agreement. When asked if, looking back, they were glad they had agreed to mediation or thought they would have been better off in court or some other agency, the overwhelming majority said they were glad they agreed to mediation: 77% of children, 88% of mothers, and 94% of fathers felt this way. Very few said they would go to court instead. Almost half the children and one-fourth of the parents who gave reasons why they were glad they had tried mediation said because it was better than the court.

During their interviews, participants were asked what they had expected mediation to be like before they went and what they had found it to be. Some sample responses follow:

(Parent A) One friend said she had done it in Salem and it worked beautifully. I thought it was a waste of time till I came. They talked to us about what the child wanted.

(Child A) It was different than it had been explained to me.

(Parent B) I expected that you hear all sides and come up with an agreement for everyone. I didn't expect the program mediator to give suggestions and I liked that they gave us an insight into one another.

(Child B) I didn't expect to be talked to individually too.

(Parent C) I expected it to be bad, thought embarassing personal things would come out, but it went smoothly.

(child C) I didn't know.

(Parent D) It was not like a courtroom. It was more social, wasn't so set up with rules, more relaxed.

(Child D) I thought it would be like a courtroom and they would get on my mother's side. They were nice.

(Parent E) I thought there would be more people. It was almost identical to the guidance clinic we used. They talked to all of us.

(Child E) It was to let my parents know what I expect of them and them of me.

(Parent F) I thought it would be like psychologists sitting around, telling us what we were doing wrong and what was wrong with the child. It felt more comfortable than that.

(Parent G) I didn't really give it any thought. We would tell our story like all the other times.

Eighty-three percent said that they were satisfied with their overall experience at the CHP: 80% of the children, 90% of the mothers, and 73% of the fathers. These levels of satisfaction seem to persist over time. In the second follow-up interviews, most still felt that their participation had been worthwhile.

Ninety percent said that the agreement was fair, slighty more parents (95%) than children (84%). Sixty-five percent, in answering why they signed the agreement, gave reasons which indicated that they were satisfied with the agreement or the process. Some statements from parents and children suggest their reasons for signing:

(Parent A) I thought it would have the effect of making A feel more comfortable at home. I thought he would stay around and not get into trouble. I felt it was the best deal for everyone. There were things I didn't get that I wanted but those I knew I couldn't get. It was a beginning to settle things. It put us on the road to be willing to settle things.

(Child A) Because I thought it made sense. I thought it would help and it would settle some stuff with my parents.

(Parent B) Because it seemed reasonable. It gave us some structure as far as having it on a piece of paper.

(Child B) I agreed because I didn't want her to be mad and I wanted to get out of there.

(Parent C) I agreed because I'd rather her be around here with her old friends than be out on the streets.

(Child C) I agreed just so I wouldn't get into a fight. I agreed with everything else she said.

(Parent D) It gave us some structure for communication and the ability to get along. It was a way to set limits on all of us. I saw it as a realistic assessment of the situation. Given rational people, it could work.

(Child D) It seemed like it was going to work out well.

(Parent E) I was hoping that these little things would help. They're important to me.

(Child E) It was O.K. The things in the contract - I could do them.

(Parent F) Because he agreed to do the things I was asking and he wasn't asking anything outrageous.

(Child F) Because it sounded like a good deal. As long as I go to school, I can go out.

(Parent G) I thought it was very fair. It sounded like something she (child) would go along with.

(Child G) It sounded good, I got to stay out until 10:00 and got to use the phone.

(Parent H) Because I went there to make an agreement, I was sick of talking about the same things. It was something factual.

(Child H) Because I had to meet her halfway and they made sense to me.

(Parent I) Because when you're there and steamed up and it was late, I would have agreed to anything.

(Child I) It was the one thing getting us into fights (checking up on me).

When asked if they thought the agreement was fair, they gave these comments:

(Parent A) It was fair because we negotiated and if he or I weren't happy we could say something, and I did on a few issues.

(Child A) Everything I agreed to is what my mother says.

(Parent B) We covered all the things B and I were complaining about and came to the middle of the road. It stopped the hassling between each other.

(Child B) It is pretty fair. It's not too strict but it could be a bit more flexible.

(Parent C) It was mostly what she (the child) wanted. She agreed to earlier hours.

(Child C) We both agreed to things.

(Parent D) We each had our own thing to do.

(Child D) Seems like I have to do more work than my brother (more chores).

(Parent E) We each got a little bit.

(Child E) It was both of us doing things, not just one of us.

(Parent F) I think every kid should have these rules.

(Child F) We both agreed on things and it was what we both wanted.

Measures of overall positive response to the process were not significantly related to age, sex of child, race, family composition, income, type of CHINS, or whether or not there had been a preliminary court hearing. For children, reaching agreements was significantly related to saying that they were glad they tried mediation, and for mothers, with a satisfactory experience at the CHP. These correlations were statistically significant.* Children who lived with a parent plus another adult person were significantly more likely to say they were glad they chose mediation and that they were satisfied with their

* Correlations which are reported as significant are at the 0.05 level or higher in a chi-square test.

overall experience at the CHP than those living with two parents or a single parent. Children referred by the court are statistically more likely to be satisfied with their overall experience at the CHP than those who are not, perhaps reflecting their comparison of the two processes.

Parents of older children are less likely to prefer mediation than parents of younger children. Conversely, older children are more likely to prefer mediation than younger children. These differences are suggestive but not statistically significant. The older child may be a better negotiator and therefore more effective in mediation than the younger child, making the process more appealing to him or her but less appealing to his parents.

Family members were somewhat less likely to report that the agreement helped the overall family situation than that they liked the process. Almost two-thirds (61%) of family members reported that agreeing on these specific points helped: 57% of the children, 61% of the mothers, and 73% of the fathers. These responses did not vary significantly by sex of child, age, race, family income, family composition, or court status. The agreement seemed helpful significantly more often to children labeled runaways (67%) and truants (60%) than to those labeled stubborn (47%). Both mothers and children who reported that the agreement helped were significantly more likely to describe less

arguing and fighting at home.* Thus, a helpful agreement is one which diminishes arguing and fighting within the family. Some statements about whether the agreement helped are revealing:

> (Parent A) We have something to go on now. It worked out a lot of things.
>
> (Child A) I still wish I didn't live here.

> (Parent B) It helped with B, but hasn't helped with his stepfather. It gave B a little more margin for copping out before he gets hell. It gave him more space.
>
> (Child B) It gave my mother a perspective on my point of view.

> (Parent C) It's more peaceful in the house. It's not great and there are still bad feelings. With the agreement, it's something we can fall back on. It is opening up communication between us.
>
> (Child C) Me and my mother, we talk and joke around. Before, I couldn't even sit in the same room without her bugging me.

> (Parent D) It's a reinforcement for the child. It's like saying "Remember who messed up first."
>
> (Child D) I guess so. Its helped both of us understand each other better. We talk better now.

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* Because of the small number of fathers interviewed, the research reports only crosstabulations of the responses of the mothers and children.

(Parent E) Part of it was looking into places she could go and options. It helped to clean her mind.

(Child E) No, because it didn't do any good for me, we still don't get along. I ended up in a place I hate.

About the same proportion responded that the agreement is working as that it helped. Of those who reached agreements, over two-thirds (68%) say it is working wholly or in part. Statements from the follow-up interviews describe how well the agreement is working:

(Parent A) My child is only doing about 70% of what he's supposed to do. His stepfather is a ball-buster, he is breaking the agreement.

(Child A) Now I have to follow the contract. I might be jumped on more so than before. My mother makes sure I follow the contract.

(Parent B) It's O.K.. It lays a foundation. Every day is different. It is a foundation to communicate and build.

(Child B) It's working out fine.

(Parent C) Not very well. As time progressed, I realized that C's problem and the family's problem is something more than can be dealt with by an agreement. It requires a larger solution.

(Child C) Not that well.

(Parent D) It isn't.

(Child D) Partially it is. I don't think my mother is coming to her side of the agreement.

(Parent E) All right. He's pretty good and I'm being pretty good. We have both reneged a little.

(Child E) Pretty well. I'm allowed to go out and to use the phone. I can do what I want. I'm doing very well in school, going to classes, working hard.

(Parent F) It didn't. He skipped school within days.

(Child F) Not too good. I hooked school. It all messed up the first day of school.

(Parent G) I think it's working great! I'm apprehensive about her starting school in the fall, though. Trust is starting to build up again. It's more relaxed now.

(Child G) Yes, nobody is breaking it.

More children in truancy cases say the agreement is working (80%) than in stubborn (58%) or runaway cases (40%), but, this correlation is not significant. Nor do parents of truant youths share their children's enthusiasm for the success of the agreement. Only 36% of parents in truancy cases, 44% in stubborn cases, and 33% in runaway cases report that the agreement is working. The findings on compliance with agreement points discussed in Chapter 5 indicate that parents and children often disagree about whether the provision that the child should attend

school has been followed or not. Children often say they are following this agreement point when their parents say they are not.

COMMUNICATION AND UNDERSTANDING THE PROBLEM

Many of the issues raised by parents at the intake interview describe complaints about the child's behavior (Chapter 6). When asked, what did you think the problem was when you came to the CHP, the most common responses among the children were fighting (mentioned by 16%), their parents's general attitude (16%), specific things their parents do (14%), communication (10%), and school (10%) (Table 71). Parents, on the other hand, were most likely to mention the child's general attitude (25%), specific things the child does (17%), communication (17%), and school (12%). These responses suggest some tendency to see the other person's behavior as the problem. Yet, at the one-month follow up interview, 75% of the family members said that, looking back, the problem that brought them to the CHP was primarily a family problem rather than the child's problem (Table 70). Parents as well as children felt this way. Only two children thought that the problem was their parents', and none of the parents said this. The later follow-up showed that even after several months, almost three-quarters thought that the problem was a family one.

Truant children were significantly more likely to think the problem was themselves than stubborn or runaway children were. But their parents did not agree. Although 64% of truant children said the problem was their own, only 25% of their parents agreed. There were no other significant differences in the child's perception of who was at fault by age, sex, race, income, family composition, referral source, court status, or reaching an agreement or not.

Mediation may change the way family members evaluate their problems, but not their views of what the problems are. When asked if they had changed their minds about what the problem was after mediation, only 13% said yes: 17% of children, 8% of mothers, and 18% of fathers.

The observations and interviews suggest that through the CHP process, family members begin to see the same problems in a larger context. They become more conscious of the pressures impinging on each other and learn more about the extent to which they care about each other. The children learn that their parents care about them or are worried about them and their parents learn more about their children's difficulties with friends and school. The communication which takes place in the mediation process seems to lead to an expansion of the frame within which the problem is understood. It serves to put the conflict into a context in which the circumstances and pressures on each person and their feelings are used to reinterpret the meaning of each person's behavior.

Improved communication is clearly one of the major contributions mediation makes to family functioning. Forty-one percent of the family members report that they have learned something new about how the other person feels about the situation and 59% say that they better understand the other's point of view since mediation (Table 72). Only 24% said they learned nothing new and only 14% said they gained no better understanding. Although these two measures are similar, they suggest that the mediation process is particularly effective in promoting a better understanding of the other person's situation. One would expect the extent of new learning in family situations, in which the participants have already been arguing and living together for a long time, to be lower than in disputes between acquaintances or strangers.

More parents learned new things than children: 35% of the children and 45% of the parents reported new learning. On the other hand, more children said they came to understand better: 69% of the children and 52% of the parents said they better understand the other's point of view. Mothers are less likely to report better understanding than fathers and children, perhaps because they have already discussed the problem more thoroughly.

When asked what they learned, the most common responses by the children were that they learned their parents' feelings (mentioned by 17 children) and their parents' needs (12). Many say that they learned that their parents loved them. Mothers most often say that they learned their child's needs (13) and

less often, their feelings (7). Fathers learn their child's feelings (4) and needs (4) about equally. Both parents and children say it was they themselves, not the other person, who came to understand better. The later follow-up indicates that this sense of better understanding persists, since most continue to report that they better understand the other person's feelings (Table 72).

Comments made in the follow-up interviews describe what family members said they learned.

> (Parent A) I didn't know she had retained and recalled certain things that I felt. It made me feel good.
>
> (Child B) She feels different about my friends than I thought. I thought she hated them.
>
> (Parent C) I learned about his feelings about the other kids (siblings), that he's growing up, that he wouldn't mind doing stuff (chores) for me.
>
> (Child C) I knew what she felt before.
>
> (Parent D) I learned that she likes to be independent. She's a teenager, you know that age. What she said up there is what she said in the house.
>
> (Child D) What they (my parents) said there, they said at home.

(Parent E) I learned that my child was stunned over my bringing him to CHP.

(Child E) I learned that she was sad about my not going to school.

(Parent F) I learned little things, like it bothered him that I talked about him. I realized he needs privacy too.

(Child F) She loves me.

(Parent G) I didn't learn anything I didn't know before.

(Child G) She just wanted me to calm down. I came in here thinking she hated me and left thinking she didn't.

(Parent H) It was interesting to see how she viewed it from a whole different perspective, interesting listening to her speak although I had known everything she said.

(Child H) I knew it before.

(Parent I) It was the same stuff hashed all over but he talked more about it. Making a deal made my child more conscious of getting to school.

(Child I) I learned that they cared about me.

Other comments describe the extent to which they understand each other better. Clearly, these are problems with a long history.

(Parent A) I didn't think he was all that concerned about certain issues he brought up such as curfews. He wants to communicate.

(Child A) I'll never understand my mother.

(Parent B) All I got was the compromises he wanted. He wants more freedom.

(Child B) Mother really doesn't want to hassle me. My parents want what's best for me.

(Parent C) I don't really understand her better. She doesn't understand what I feel either.

(Child C) Yes. When she blows off the handle - a lot of times she's not strictly mad at us...like with bills.

(Parent D) A lot more understanding. Just the different things I said I didn't know offended him and how he thinks he always gets blamed for everything.

(Child D) She doesn't want to see me end up on the streets. She's worried about me.

(Parent E) I've always understood her point of view. She wants something for nothing.

(Child E) It's just clearer from what she had told me.

(Parent F) She wasn't saying or doing anything I didn't know.

(Child F) I can see what she means about me blowing up and runnng out of the house and how that's not good.

Parents of males more often report learning something new (57%) than parents of females (36%), and those who reach an agreement report new learning far more often (51%) than those who do not (11%). Seventy-one percent of children who live with a stepparent or other outside person in the home report new learning. Both single parents and parents plus others in the household including remarried parents are more likely to report new learning (50% and 64%) than married parents of the child. These remarried parents also report better understanding. Parents are more likely to learn something new and gain a better understanding of their children when the children are younger and male, and when they are labeled stubborn or runaways than than when they are truant, although these associations are not statistically significant. It is in relationships between parents and younger children, parents and boys, parents who are living with another person besides the natural parent, and parents and children labeled stubborn or runaway, that the communication provided by mediation is most effective. Other children may well have more entrenched positions and be less amenable to mediation or may have already communicated more effectively with their parents.

When asked if mediation made it easier to talk to the other person, 49% responded that it did (Table 73). Forty-six percent of children and 51% of parents felt this way. Parents of younger children were more likely to say this than parents of older children, as were parents of boys and single parents living with

another spouse, but these associations were not significant. Children who reached agreements were significantly more likely to say that it was now easier to talk than those who did not. Although mothers generally responded the same way, this association was not significant. Parents of truants were less likely to report that mediation made it easier to talk than parents of runaway and stubborn children, but again this association was not significant. These results confirm that mediation is most effective in improving communciation with younger, male, non-truant children living in more complicated family situations.

The ways family members described whether it was easier to talk are illustrative.

> (Parent A) He has got a lot of anger about the past and he doesn't expect to be understood and get his way. He stands off from that position. In the past, discussion didn't get far. But being in mediation was an experience where he got some success. He feels more comfortable with us. He feels we are more understanding of his point of view.
>
> (Child A) I never talk to my parents, so it really hasn't helped.
>
> (Parent B) I have no other choice. It opened me up to talk to her. I know I'm not alone.
>
> (Child B) The agreement helped us out and my mother said if we can talk it out in front of them we can talk it out here.

(Parent C) It's the same.

(Child C) We don't do much talking, though before we didn't say two words unless it was an argument.

(Parent D) It's easier to talk with her. She realizes there are people helping her.

(Child D) Before I couldn't talk to them about things. Now I can. They're not against me, they're trying to help me.

(Parent E) I don't feel so ready to strangle him because he's screwing up his life. I want to talk to him. We both know he can talk and also that we can come to another hearing.

(Child E) They wanted to sit down and listen to me.

(Parent G) I could always talk to her.

(Child G) I can't talk to her.

Improved communication leads to improved family functioning. Those mothers who report learning something new are significantly more likely to say that the family relationship has improved and that they have changed the way they handle conflict, while those who say they understand their children better report less arguing and fighting at home and changes in the way they handle conflict. Children who say they understand their parents' point of view better are also significantly more likely to change the way they handle conflict. Those mothers who say they have learned new things and better understand are significantly more likely to

reach an agreement and to report an improved relationship. Since these correlations are more often significant for mothers than children, the impact of communication on family functioning may be greater for mothers than children.

These findings document one of the major impacts mediation has on family functioning: it affects communication and understanding within families. The second major impact, discussed in the section below, is on patterns of handling conflict within families. These changes are closely related.

CHANGES IN FAMILY CONFLICT

Mediation, including the contact with the case coordinators, alters the way some families say that they manage conflict, improves relationships in some families, and decreases the amount of fighting and arguing in many families. The major shift is from arguing and punishment to talking and avoidance; from confrontation to negotiation and disengagement. Chapters 5 and 6 showed that mediation is a process which substitutes negotiation for confrontation and fighting. It teaches people to bargain over differences. The mediators, people of a higher social status than the clients, both instruct and demonstrate to the family members how negotiation works by applying it to their own situation.

The results of the one-month follow-up interviews suggest that families, particularly parents, have learned that they ought to talk about problems rather than to fight about them. Whether families have actually changed what they do or simply changed what they say they do is impossible to determine without intensive ethnographic observation in each family's home. However, our general impressions, as well as the overlapping responses from different questions, suggest that the reported changes may reflect some real behavioral changes.

In the one-month follow-up interviews, families were asked how they handle conflict now, how they used to handle conflict, and whether their present approach is different from what they used to do. Seventy percent (70%) of the family members said that there was less arguing and fighting now than before the mediation sessions. About the same proportion continued to feel this was true in the later follow-up (see Table 74). Children who lived with a parent plus someone else were significantly more likely to report less arguing than those who lived with single or married parents. The difference is not significant for mothers. This data shows again that mediation is particularly effective in more socially complex family situations.

Two-thirds of the family members report that their relationship has improved, with the children responding this way slightly more often (71%) than their parents (66%). Both mothers and children report improvement in relationships significantly more often in stubborn and runaway cases than in truancy cases,

probably because truancy cases typically do not involve family conflicts. Otherwise, improvements in family relationship were not associated with demographic or case type variables such as age, sex, race, referral source, income, or family situation. Several months later, over half continued to report that things were going well in the family and three-quarters described the family as more in control than it was when they first came to the CHP (Table 75). As Table 75 shows, the children are more often positive about the improvements in family functioning than their mothers.

When asked whether the way the person handles conflict now is different than it was, over half (57%) say that it is (Tables 76 and 77). The change is greater for parents than children, with 64% of the parents reporting a change and 48% of the children. The greatest impact appears to be on the fathers, of whom 82% say they have changed while only 57% of mothers report changing.

Overall, the shift is from arguing, getting angry, violence, and punishment to talking and, to a lesser extent, avoiding the problem by leaving the room or ignoring things (Table 76). After the mediation experience, almost half the respondents say they handle conflict by talking things over (47%), and the rest by leaving the room (19%), by ignoring things (16%), by fighting (13%), and by punishing (1%). Six percent say they don't know what they do. Table 76 shows the changes between what family members say they do now in comparison to what they say they used

to do before mediation. As the percentage change indicates, there has been an overall increase in the frequency of talking and a decrease in arguing, getting angry, violence and, for the parents, punishment.* To a lesser extent, family members also say they ignore problems and avoid conflict more than they used to.

Specific statements from parents and children about how they handle conflict now in comparison to before mediation suggest the general texture of family conflict and its changes.

> (Parent A) We refer to the contract. We come to an agreement that all parties are happy with. There are issues where there is negotiating, like my child picking on his brother. We did it before but we have done it more since mediation. There's less tension when an issue comes up. My child is apt to negotiate, rather than act out.
>
> (Child A) I argue with my parents, that's all.
>
> (Parent B) We argue the point, whatever it is. We try to resolve it with the agreement. I used to pull a power play. I have better results when I negotiate. He's got to be involved.
>
> (Child B) I ignore my mother. Before I used to yell.
>
> (Parent C) We argue about it. One time I made him go to bed.

---

* A t-test of two-tailed probability indicates that the changes in frequency of arguing, talking, and punishment are significant for mothers, fathers, and children.

(Child C) We fight. We used to argue it out. Before it was more violent and physical.

(Parent D) Ignore them (conflicts). Before I would disagree and be argumentative, strict, and stern.

(Child D) I don't do anything about disagreements.

(Parent E) I set my standards, I say it and that's it. I put my foot down. I'm firmer than before.

(Child E) We get mad at each other and then we talk about it. Before she only talked sometimes.

(Parent F) I just ignore her. I used to argue with her, punish her.

(Child F) She yells and yells. I tell her to be quiet. I don't talk to her.

(Parent G) I try to negotiate. I find my child unreasonable. I had tried it before, as well as other things like giving him his own way.

(Child G) I want to talk it over, my parents won't. Now my father has all the say. It's worse even than before.

(Parent H) I don't immediately get angry like I used to. We talk it out. With the school issue, I knew I had a second mediation to come to. I used to get emotional before and he wouldn't talk like he does now.

(Child H) I just leave.

(Parent I) I've been more aware of handling the situation. Before I was more of a nagger. Now I back off and try not to reinforce her negative behavior.

(Child I) We talk about them (conflicts). We used to talk but I usually yelled and screamed about it.

(Parent J) We yell and argue about them (conflicts). We finish it out and settle them now. We don't leave arguments hanging. We never finished it before, it was never settled.

(Child J) We talk. Before my mother used to talk and I used to sit there.

(Parent K) We tend to yell and scream and then apologize and then talk. My child didn't talk before, just yelled and screamed.

(Child K) First I try to talk about it, or I go in my room and avoid it. Before she'd yell at me and I'd just say "all right".

A closer examination of reported shifts in conflict management suggests that the changes are different for children than mothers and fathers. Table 77 describes the shifts made by individuals. Of those who changed, half changed to talking.

If strategies of handling conflict are divided into confrontational ones (punishment, getting angry, arguing, using violence) and non-confrontational ones (talking, ignoring problems, avoiding problems, or referring to the agreement), almost all changes from one to the other were from a confrontational to a non-confrontational strategy. Seventy-one

percent of fathers who changed made this shift (10), 65% of mothers (17) and 52% of children (11). Only one person, a mother, changed the opposite way. She used to leave the room and now she argues. The others made changes from one type of behavior to another within the confrontational or non-confrontational category.

All family members report learning to negotiate and, to a lesser extent, to disengage from conflict, but children learn these about equally while parents are more likely to increase their use of negotiation rather than their use of disengagement. Fathers changed most sharply toward talking rather than confrontation, mothers changed in the same way but less, and children, who were already more likely to ignore and avoid than their parents, increased both talking and ignoring problems as strategies of conflict management. Obviously, these are small numbers, but they coincide with the observation in Chapter 6 that parents, particularly fathers, tend to have used rather authoritarian modes of control and are persuaded by the mediation process to shift to more negotiative ones. Children, on the other hand, learn both to negotiate and to disengage from conflict.

Mothers reported statistically significant differences in the ways they now handle conflict with their sons and with their daughters. Mothers say they now are more likely to talk over problems with their sons and to ignore or avoid their daughters. They decreased the use of punishment for boys but not for girls

(Table 78). Of the mothers who say that they now handle conflict by talking (26), 62% are the mothers of boys and 39% of girls. On the other hand, of the 11 mothers who say that they now ignore or avoid problems, 10 are the mothers of girls. These numbers are very small, however, and can only be suggestive. Although there is some variation in conflict strategies by type of CHINS, as indicated in Table 79, these are not large nor are they statistically significant.

Two-thirds of the family members said that their relationship had improved since mediation, and after several months, 68% continued to feel this way. For 81% of children, 87% of mothers, and 100% of fathers, the mediation program played some part in the improvement (Table 41). Outside circumstances also contributed to the improvement for 73% of the family members. For those 52 who listed specific outside circumstances which helped, the most common were the court, therapy, further efforts by the family itself, and other friends and family. After several months, the most common improvements described were that they were better able to talk, they got along better, and, in the parent's view, the child was taking more responsibility. In 16% of the families, the child had left the home, in 12% there had been some other move, and in 2% someone else had left the home. In up to 30% of the families, therefore someone has moved away from the family situation. This suggests that to some extent, these families have handled conflicts by avoidance.

In sum, contact with the mediation program alters these families' repertoire of conflict management strategies in the direction of increased negotiation and disengagement. This shift is closely tied to achieving a better understanding of the other person's feelings and situation. It is the entire mediation experience, from the intake by the case coordinator, the presentations by the mediators, practice with the process during the session, and the case coordinator's efforts in the follow-up, which leads to these changes. The changes are most marked in family situations in which the internal relationships are most complex and communication least effective: in reconstituted families, in families with sons, those with younger children, and those with children labeled stubborn and runaway. Income, race, referral source, and other aspects of family composition have little effect on all the measures discussed in this chapter. This chapter shows that in the view of the family members, mediation helps them to communicate with each other and to learn to negotiate or sidestep their domestic conflicts. It is impossible to judge, based on this research, how deep-seated these changes are or how long they will persist. Whether or not this change is desirable to policy planners is a separate question, discussed in Chapter 11.

CHAPTER 8

THE MEDIATORS

Chapter 2 described the characteristics of the core group of mediators who work at the Children's Hearings Project. This chapter explores in more depth who the mediators are, why they are interested in mediation, how they view the process and what they think of the families who come to the CHP. Overall, the mediators are highly motivated and concerned individuals, primarily women, with training and experience in human service professions. They work as volunteer mediators because of an interest in personal and professional development and an interest in community service. Many emphasize the value of learning the skills of mediation for their professional and personal life. The personal satisfactions of mediating and the social contact with other people at the CHP are important to their continued participation in the program.

In order to gather a picture of the kinds of people who work as mediators and their views of the process and the families in the CHP, the research team interviewed the ten core mediators in an intensive one to two-hour session. Questionnaires were mailed to all the other mediators on the active mediator list. About half of these 25 mediators, 11, returned the questionnaires. The questionnaire was a shorter version of the interview schedule used for the core group. This group of 21 mediators represents both the core group and those who were sufficiently interested and motivated to fill out and return the questionnaire. It describes typical views and opinions of mediators, but is not strictly representative of the entire population. Some of the comments below are direct quotes from questionnaires, others are based on interview notes.

Of the 11 who returned the questionnaires, 9 provided demographic information about themselves, as did the ten core mediators. These nineteen mediators were fairly homogeneous. All were white. Those who provided their ages were between 21 and 45 years old, with an average age of 38. Almost half were under 30. Fourteen were women, five were men. Ten were married, seven single, and two divorced. Only seven had children, and of these, only three had children who were teenagers. Six worked as social workers or counselors, four as child advocates or educators, three as lawyers or legal service workers, one as a mediator, one as an outdoor instructor, one as a community organizer, one as a nun, one as a fireman, and one as a

researcher. Their average income was $23,000, including three earning over $36,000. However, four did not provide income information. One held a Ph.D., nine a Master's degree or a law degree, three were currently in graduate school or law school, three had a B.A only, and three had attended some college but did not have a college degree. These mediators are, therefore, relatively young, highly educated, usually without children, often professionals in law or human services, and not particularly affluent.

THE MEDIATORS' VIEWS OF THE PROCESS

Strategies for Settling Cases

The 21 mediators interviewed were asked to describe their techniques for mediating cases. Most emphasized that they used techniques of negotiation and bargaining about specific issues. Seventy-six percent described their style as a bargaining one. A few said their style was to facilitate communication. Mediators describe their styles as follows:

> I try to find something they can fight over to get an idea of their style. I try to do a process where you take a ball of broad issues and expand it by breaking it down into concrete ones. I see what issues really matter to them and work on those.

> Caucuses (recesses) are vital for a panel of mediators in order for them to collect their thoughts, strategies, and organize the information, to key in on only a few points instead of a wide array of issues, to help participants focus on some common ground. I emphasize the positive, build on the strengths. I try to keep possibilities open for future sessions. I keep firm limits set regarding outbursts, interruptions etc., in order to show respect for all individuals. I try to clear up conflicts between mediators.
>
> I ask the parties to review why they came, asking them to suggest possibilities. I ask the families to come up with alternative desires. "If this were so, then..." I ask them to review times that were easier.

In describing a good mediator, one of the mediators said,

> A good mediator is one who does not fall into the trap of thinking up solutions for the family but is continually trying to get the family to come up with its own solutions. A good mediator is one who joins easily with family members, who does not allow his own value judgments to enter into the process of mediation.

Easy Cases and Tough Cases

Most of the mediators described an easy case as one in which the parties are receptive and cooperative, insightful and verbal, and the issues well-defined. A strong family relationship makes a case easier. On the other hand, a tough case is one in which the family is resistant, rigid, unwilling to compromise, or unable to communicate. Cases are tough when they involve more serious problems such as alcoholism or mental health problems. Mediators find that they have great difficulty with families who refuse to open up and reveal their feelings and problems.

> A tough case is when the parents feel that the mediators will straighten out the kid and the parents are not willing to negotiate at all. It is easy where there is a strong relationship between the child and the parent, and where both recognize that it is in their best interest to work it out.
>
> Truancy is tough when there is pressure coming from the school, or when the parents are separated so that there are issues between them as well. A case is tough when people are not willing to compromise. A case is easy when they come with a set of issues already identified and are willing to be open, and in cases in which the parents and the children have the same story.
>
> A tough case is when the fathers are macho and their authoritarian role is threatened by the process and they have the brakes on all the time. It is tough when the family just wants to complain.
>
> A tough case is when no one wants to participate. An easy case is one in which the family sees some hope.

The Role of Advice

In training, mediators are taught not to bring up their values or to give advice. However, during the process of mediation, they often find it helpful to make suggestions and to give advice cloaked as suggestions. Many families are looking for suggestions from someone else and are desperate for solutions. Offering a solution promotes agreements since a family can reach an agreement only when it has adopted a concrete plan of action. It is not surprising that mediators, who are eager to produce agreements, feel ambivalent about giving advice.

Most reach an uneasy compromise by saying that they should not bring up their values but that it is alright to give advice. Sixteen of the mediators said that they should not bring up their values, one said that he should, and four said they should sometimes. More felt that it was alright to give advice. Only eight said this was wrong, two thought it was a good idea, and 11 felt advice was appropriate sometimes. The comments from mediators about whether or not they should give advice show that they walk a narrow line between giving advice while not imposing value judgments.

> It's a fine line. I wouldn't say what to do but I use things like, "What if?" I came in with rigid ideas about how mediation should be. I realize now that there's more of a grey area between giving advice and helping a family with ideas.
>
> It depends on how you do it. Some people are craving it but it only should be given if it is as open and as objective as possible.
>
> It is natural to offer advice at certain times. If it helps to facilitate the process of mediation rather than disrupt or inhibit the session, then I feel it is not wrong. One has to be careful not to try and solve the problems of the family or to overstep the process at all.
>
> No. I really feel this is inappropriate. The mediator is there to facilitate, not to mold or reshape everyone else's life or belief in his own image. As a mediator, it is not your role to change peoples' values but to make them more comfortable with their own values.

The Good Mediator

Mediators see the mediator role as an attractive and inherently rewarding one. Most agree that it offers the opportunity to learn new and potentially useful skills. They describe the good mediator as a good listener, a person with a good memory and ability to summarize, and a person who is calm and patient. The good mediator is a person who accepts others' values and objectives. He or she should be able to encourage parties to express themselves, have the ability to communicate well to families, and be able to empathize yet maintain distance from the families.

The ten mediators who worked most often were asked what they get out of mediation. Their responses focused on learning new skills, a sense of satisfaction that there is an outcome, the intellectual challenge, an emotional lift, and the sense of being a helper. Several enjoyed the sense of competence and the opportunity to meet new people. Nine of the 21 mediators interviewed said they got involved with doing mediation to learn new skills or to make a career change, six wanted to get involved with the community, and six wanted to work with youths and families.

When the mediators were asked whom they are helping with mediation, fourteen responded that they are helping the families, others thought they were helping the court, the community, and themselves. (Several gave more than one response.)

> There's some real direct help to families. It helps parents who can't deal with adolescents. The community gets the benefit in that it may prevent kids from getting into delinquencies and hanging on the street.
>
> I help both the parents and the kid. It helps the parents by making them think and know that the child has the right to agree or not to agree with something when he signs the agreement and in all the steps before reaching the agreement. It helps the child by making him feel that he has the right to judge his own behavior.
>
> The families and the court system. It gives the family an alternative option to resolve their difficulties instead of going through the traditional court system of judge deciding guilt or innocence and imposing solutions. It also empowers the family to resolve issues within its community, by community members and between each other.

Limited Expectations

Mediators generally have limited expectations about the ability of the process to resolve the entire problem. When asked if they conclude a mediation feeling that the problem has been resolved, only two of the ten most experienced mediators said yes.

> The problems are not resolved, but they are working toward it. We have done the first step toward resolving it. We have made it a little clearer, but are not quite there.
>
> No, we have not resolved them, but I think that people have a different way to work together now.
>
> I leave most times feeling that we have addressed some problems and sometimes leave feeling that we have resolved the problems. I often leave feeling that the family can resolve its own problems now.

Nor do the mediators expect the agreements to resolve the problems the families are experiencing. Agreements are simply a step toward that resolution. All of the ten core mediators said that they thought the agreements were meaningful, but they saw these as a beginning rather than the conclusion of the conflict:

> It's a concrete sign that life can get better. There's something there that can be seen.
>
> Yes, it begins to clear some things up in a way they might never have thought of. It gives a little structure.
>
> They're a start. It gives them the idea that they can come to an agreement. It helps them to have it written down.

Few of the core mediators felt that all family conflicts could be resolved through mediation, although almost all thought that mediation makes progress in that direction. Among the 21 mediators queried, many listed problems that cannot be handled by mediation, of which the most common were serious mental health problems, drug abuse and alcoholism, child abuse and family violence, incest, and school problems. Four thought it could get to the root of the problems, 11 thought it could to some extent, and six thought it clearly could not.

> It can direct people towards the root. Often counseling is recommended to get at the root. It can shed light on it but we deal more with symptoms.
>
> No, not in the majority of cases. You just don't know. You can't realistically expect to really see what's going on in one session, how they're really feeling. You can work on whatever you think may be an important factor or cause, but you still may not really know.

> More times it does than not. In my experience, there was only one case where this did not occur. In all the other instances, I feel the underlying problems of alcoholism, physical abuse, etc., were uncovered and dealt with in an appropriate manner during the mediation session.
>
> Yes, of some problems that are addressed. It can give people a mechanism to fall back on for solving other problems. I think of it as a cascade theory.

Most mediators share a negative view of the utility of the court process for resolving CHINS cases. Only 6 of the 21 mediators gave positive comments about the value of the CHINS court process. Yet, few thought that mediation should replace the court altogether. Seventeen said that there are some cases that mediation cannot handle. A few comments from the mediators reflect this general opinion:

> I think there is a place for courts and that mediation by itself can't cover all the needs. There should be a range of alternatives, court being one and mediation being another.
>
> I don't think mediation should be the mandatory place to go just as court shouldn't be.
>
> As much as possible, the experience in mediation is a positive and a powerful one for both child and parent. The court is a negative and depowering experience for both child and parent. It makes the family seem out of control.

The Process and the Agreement

When asked if the process or the agreement is more important, only one mediator said the agreement, 15 said the

process, and 5 said both were equally important. The mediators' comments indicate that they see the process as training in a kind of negotiation which is useful for future problems.

> Truthfully, the process is more important. Because it is the parties coming together and problem solving in a way that they can use in the future even if the agreement breaks down.
>
> The process, absolutely. It is the exchange of feelings and thoughts that produces encouragement. If it can be taken back in the home, it can help people with problem solving in the future. Agreements are a memorialization of the process.
>
> The process. The experience of working out difficulties with one another. Hopefully this process of relating will facilitate the family in doing the same process at home. Teaching the family new ways of communicating is most important -- new alternatives, the ability to compromise, and the ability to work out their own solutions.
>
> In families that do not know how to communicate or compromise, the mediation process is more important, if in the process they learn to do either. In families that know how to compromise, the agreement is usually more important.
>
> If I have to pick, the process is more important. If you teach people how to do this, they can continue to do it themselves. There is an immediate sense of failure if there is no agreement, however. Outside agencies are product-oriented and probably judge a mediation session by whether or not an agreement is reached. It shouldn't be that way.

Despite these comments, however, mediators feel considerable pressure to arrive at an agreement and experience some sense of dismay and failure if they are unable to produce one. When the ten most experienced mediators were asked what they think of mediation sessions in which they did not reach an agreement, seven said that they feel disappointed, down, or as if they had

failed. Some say they now feel less like a failure after considerable experience. However, arriving at an agreement is inevitably an important measure of success in a task for which other measures of success are vague and unreliable. Most mediators report that they do not really know when they have done a good job, but that they look for a reduction in tension, smiles, or appreciation from the parties. Mediation of parent/child conflicts is a highly demanding and skilled process in which a sense of competence is the major reward the mediators experience. It is not surprising that mediators feel considerable interest and concern about whether or not they have performed well.

These mediators are clearly highly skilled, concerned, and motivated professionals. They operate with limited expectations about what mediation can accomplish and recognize that their role is most productive if they can handle a few issues and lead families toward similar ways of handling such conflicts in the future. They see the process as central and the agreement important not because of its specific content but because it represents the successful culmination of the process of negotiation and mutual accommodation.

THE MEDIATORS' VIEWS OF CHINS FAMILIES

The interviews also asked mediators what they think about the families that come to mediation and what they think causes family conflicts of this kind. By and large, the mediators see the children as normal adolescents "acting out" in order to establish independence and assert their own identities. They view the families as caught by financial pressures and the stresses of modern society. They see the parents' recourse to court as a last, desperate effort to deal with the situation which they pursue for lack of an alternative. Based on the description of the families in Chapter 3, the mediators have a fairly accurate picture of the situations of these families.

When the mediators were asked why they thought these families came to court, most (17 out of the 20 who responded) thought that the families came to court as a last resort, because they were frustrated. Nine felt that they wanted the authority of the court to control their child. The general consensus was that these parents were feeling powerless and "at the end of their rope".

The mediators explained family conflict in terms of the stresses imposed by society. Most mediators gave several reasons for the conflict. Half blamed financial pressures, while several mentioned cultural pressures, marital problems and divorce, and different ideas and morals. Several located the problem in the

dynamics of family life: children becoming adolescents, a lack of parental skills, parents with unrealistic expectations, and a lack of communication. Only one mediator mentioned the time and money strains of a single-working mother. One mediator described her view as follows:

> Family conflict is the result of control issues, poor communication, and power-plays. The natural process of growing up and asserting one's individuality may not be a smooth transition for some adolescents; it depends on each family's own dynamics.

When the mediators were asked if they saw any patterns in the kinds of families served by the CHP, they again pinpointed societal stresses and poor parenting. Six mentioned troubled parents with a lot of personal problems, while others pointed to stressful conditions at home, single mothers, an inability to communicate, divorces, and a lack of parental skills. Four added that these are motivated families, since they have made the effort to come to mediation.

The mediators clearly feel that these problems are both the parents' and the child's problem (18 of 20). Only one said they are the parents' problem alone. The child-centered philosophy of the program, described in Chapter 6, partially accounts for this perspective. The mediators expressed their viewpoint about who was responsible for the problem in various ways:

> It varies depending on the case. The biggest surprise to me was when the child has the upper hand and is pushing the parent around and where it's not a new problem.

> It seems like in most of the cases the children were reacting to poor parenting. Not to blame the parents, but they probably do it out of their lack of knowledge.
>
> Very often it's both sides. It is a mixture. Some problems are the parents' problem because they're so strict. Or it is both when families are struggling and encountering all the nitty-gritty of adolesdence. It floored me what some of the things parents were there (at the mediation session) for. That they can't work it out themselves says something about the parental image at home.

The mediators say that the teenagers they have seen are in need of help, but they are like other kids their age and are not delinquent or criminal. They tend to see rebellious adolescent behavior as normal, perhaps exacerbated by family stresses. When asked how they explain adolescent acting out, the mediators stressed its normality. Almost half felt that adolescent acting out was natural and developmental, that it was reaching out for help and attention, and that it was asserting independence. A few mentioned peer pressures, testing by the child, and the child's sense of being in trouble or pain. None attributed this to pre-criminal behavior. Two of the comments by mediators suggest that for the mediators, explanations for this behavior are firmly rooted in a theory of adolescent development:

> They have to cut the ties that bind in order to grow and become independent and that's hard to do.
>
> Adolescent acting-out is a vital form of rebelling, a rebelling that tests the water and hopefully plants their feet in adulthood. The problem is that they are often testing things that are scary to adults and they receive negative reactions. These reactions reinforce the behaviors and the circle goes round and round.

In sum, it appears that the mediators have a fairly accurate picture of the social and economic situations of these families, and that they interpret their behavior in terms of a larger framework of social pressures and theories of family dynamics. They do not view the child as being at fault, nor do they attribute these problems to individual failings or incipient criminality. Although they see the critical role of social and economic pressure on these families and the failures in their parenting, they do not raise either of these issues in mediation sessions. All is understood and tolerated. The mediators' perspective clearly reflects the kinds of understanding offered by professional ideologies developed within the social sciences and the helping professions.

CHAPTER 9

COMPARISON OF COURT AND MEDIATION

This chapter compares the substance and process of case handling in court and in mediation, examines the impact of the Children's Hearings Project on court caseloads, and describes the way the families who went through mediation compare mediation with court. It examines the effect of mediation on the duration of a case in court. The data show that mediation does not reduce their time in the judicial system but it does increase the likelihood of dismissal. Cases in which mediation is tried unsuccessfully are treated as firmly as those in which it is not tried.

Both court and mediation make social service referrals, but the court referrals are generally for evaluations while the mediation referrals are for counseling. The impact of the CHP on the court is substantial: a large percentage of cases are

referred, and referral sources report that they were quite satisfied with the program. However, it is impossible to estimate the cost savings produced by this program.

These comparisons between mediation and court refer primarily to the Cambridge court, which handled 55% of the research cases, and the Somerville court, which handled 18%. Ten percent went through the Malden court and 18% were not involved with any court.

MEDIATION CASES IN COURT

Many of the same issues are raised by families in court as in the mediation, but there are differences in emphasis. A comparison of the issues raised in court and issues appearing in the agreements of court-involved mediation cases shows that truancy is less often mentioned in the agreement than in court and curfews and chores appear more often (Table 66). Rules for family functioning, such as checking in, when friends can visit, after school activites, and telephone use, appear in agreements but not in court.

A comparison of the issues raised in court for the three groups of families -- those who went through mediation, those who were referred but not mediated, and those not referred, suggests that the issues were generally similar (Table 32). The major

areas of discussion in court are truancy and running, usually the precipitating circumstances which have brought the child to court as well as mediation. The cases which eventually went through mediation tend to have more frequent references to problems of control and family dynamics, again indicating the disproportionate referral to mediation of families with internal conflicts (see Chapter 3).

The average length of time the dismissed cases spent in court from arraignment to dismissal was 6 months and for non-dismissed cases from arraignment to the last day in court was 7 months (Table 93). On the average, it took 19.5 days between the application and the arraignment, 44 days from the arraignment to the issuance of the petition, and 51 days from the arraignment to adjudication of CHINS. But only 13 mediated cases had a petition issued and only six were adjudicated. It appears that the court does not proceed in a large proportion of the mediated cases but when it does, it does so within the space of a few months.

As Table 93 indicates, there is a wide range of variation in time cases spend in court, with some spending a year or more. The major impact of mediation on the timing of the court process appears to be a delay in the issuing of a petition from an average of a few days to 40 days. Petitions were issued an average of two days after arraignment in court cases, 9 days after the arraignment in non-mediated cases, and 40 days after the arraignment in mediated cases. Clearly, the court has

postponed this step until after the mediation session. Non-mediated cases are dismissed more quickly than either court or mediated cases, and mediated cases which were not dismissed remained longer in court than non-mediated. Some of the non-mediated cases were dismissed right away, while no mediated ones were.

The last day in court refers to the length of time the case had been in court at the end of the research period for those cases not dismissed. Since the three sets of cases were selected from the same time frame, they are comparable. The figures suggest that mediated cases which are not dismissed do not leave the court more quickly than other cases. The impact of mediation on the timing of court appears to be a delay in the issuance of a petition, not a quicker exit from the judicial process.

A comparison of the speed with which these cases are handled in the CHP indicates that they typically stay in the program between three and four months, waiting about three weeks between intake and mediation and about three weeks between first and second mediation (Table 1). The court generally dismissed the case two to three months after it had been terminated by the CHP. Thus, the experience of going to mediation does not have much impact on how long a case stays in court, and it typically remains in the court while it is in the CHP. However, cases are handled more quickly in the CHP than they are in court.

Mediated cases are less likely to have a petition issued and are more likely to be dismissed than other cases. Thirty-five percent of the mediated, 49% of the non-mediated, and 56% of the court group had a petition issued (Table 26). Sixty percent of the mediated, 49% of the non-mediated, and only 26% of the court cases were dismissed (Table 28). Although the numbers are small, mediated cases are more likely to be adjudicated than the other two categories. Six mediated, 3 non-mediated, and one court case were adjudicated CHINS (Table 27). It appears that after a child has not responded to mediation, a petition is issued more quickly and the child is more likely to be adjudicated (see Chapter 4). However, because the sample of court cases is relatively small, this difference in frequency of adjudication may not be significant. In 1984, the Cambridge court heard a total of 131 new CHINS cases, of which 19% (25) were adjudicated. This figure is considerably higher than the 2% we found for non-referred court cases. Of course, since a significant proportion of the cases handled by the court were referred to mediation, the non-referred sample on which the 2% finding is based represents only a portion of the total CHINS caseload.

While the 37 court-involved mediated cases were in court, the most frequent events recorded in court records were placing the child in a residential facility or foster home (19% of the cases), a changed living situation (22%), the child's running (19%), and school changes (11%). Non-mediated and court cases had

roughly the same experiences, with 30% and 20% of these children placed, respectively. At the later follow-up interview in mediated cases, 63% of the 24 children interviewed said that they had been back to court, 14 out of 15 of them on a continuance and one on a new CHINS.

One of the concerns of the critics of mediating parent/child conflicts was that a mediation program would be less successful in referring families to services than the court. The proponents of mediation, on the other hand, felt that mediation would lead to more appropriate social service referrals than the court. A comparison of the social service referrals made by the court and the CHP indicates that for mediated cases, the CHP was more likely to refer cases to social services than the court, but all three groups received approximately the same level of services after intervention (Table 81). As Table 82 indicates, the type of referral was similar. The most frequent referral for mediated cases by both CHP and court was for mental health sevices (41% of referrals from CHP and 66% from the court). The court referred cases primarily to the court clinic. Fifty-four percent of the referrals for non-mediated and court cases were for evaluations. The court recommended an evaluation in 81% of these non-mediated and court cases. Almost half of the evaluations recommended some kind of counseling (42%). Even in the mediated cases, one-third of the referrals made by the court were for evaluation. The Department of Social Services was given custody of the child in about one-fifth of all cases, but the families received voluntary

services more often in non-mediated and court cases than in mediated ones (Table 83).

This comparison of social services referrals suggests that mediated cases receive as many social sevices referrals as court cases, and they are fundamentally of the same type, involving mental health and counseling services. However, it appears that the court tends to refer cases to the court clinic for evaluation, which recommends counseling, while the CHP refers directly to counseling. In other words, the difference in referrals is primarily one of procedure, not of substance. The two referral systems end up in the same place.

THE FAMILIES' COMPARISON OF MEDIATION AND COURT

Families expected very different benefits from mediation than they did from court. Most report being satisifed with mediation more often than with court and say that they think it is better, but say that both are helpful equally often. Overall statements about satisfaction between court and mediation are surprisingly similar, although other studies have reported the same parallels (Merry 1982). Moreover, the court seems equally understandable to the families, despite the reformers' arguments that the courts are obscure and difficult for laymen to understand. However, both parents and children thought that

mediation was more private and gave them a better chance to talk. Both parents and children thought the opportunity to talk was important, while parents were particularly concerned with privacy.

One month and several months after the mediation, families were asked if the court was helpful and if mediation was helpful. As Tables 87 and 88 indicate, after one month, 78% felt the CHP was helpful and 65% thought the court was helpful. Several months later children and fathers think both were helpful equally often, while mothers find mediation helpful slightly more often (Table 85). In the same interview, about half say that mediation is better than the court, although a few mothers think they are the same (Table 84).

At the one-month follow-up interview, parents and children were asked what they expected the court and mediation to do for them. The families' generally expected mediation to work things out or expected nothing. Forty-five percent of the children, 23% of the mothers, and 12% of the fathers expected that mediation would help them to work things out, and 4% of children, 6% of mothers, and 29% of fathers thought it would help them learn new things about each other. Twenty-nine percent of children, 19% of mothers, and 24% of fathers expected nothing. On the other hand, parents generally expected the court to change, scare, or place the child. Thirty-two percent of the mothers expected the court to scare the child, 18% to change the child, and 5% to place him or her while 46% of the fathers hoped for scaring the child, 15%

for changing, and 23% for placement. The other responses covered a wide range of expectations. In contrast, 10% of the mothers and 18% of the fathers expected mediation to change the child but none to scare or place her.*

In those cases which had been to court, the mothers said that their expectations were fulfilled in only 25% of the 28 cases, however, and the fathers' in 46% of the 13 cases. Fully 88% of the children who went to court, 84% of the mothers, and 100% of the fathers said that they understood what went on in court (Table 86). Fewer were satisfied, as Table 86 indicates, with the mothers reporting lower levels of satisfaction than the children (48% satisfied vs. 63%). This discrepancy persists at the later interview. Half of the 21 children who responded that they were satisfied with the court said that it was because of the outcome, while only 6% of the 16 mothers who reported being satisfied gave the same reason. The most common reasons mothers gave for satisfaction were that it made the child realize the seriousness of his or her behavior (25%), that the judge understood (19%), or that they liked the process (13%). The most common reason given by children, besides the outcome, was that the judge understood (14%). Only eight fathers went through court and said they were satisfied, and their answers show no

* In comparison to the population examined in the PINS study of New York status offender cases, these parents were much less likely to want their children placed than the New York parents (Block and Kreger 1983).

pattern. On the other hand, the most common reason children give for not liking the court are that it scared them and that they did not like the process. Mothers most commonly disliked the process, thought the judge was too easy, or did not like the outcome.

Overall, these figures suggest that the courts are more lenient than either parents or children expect. The outcomes do not seem to provide the control or changed behavior that their parents hope for. Insofar as the parents do like the process, they focus on its ritual and symbolic role in making the child realize his or her behavior is serious. Similarly, some of the children say they do not like the court because it was frightening. These responses highlight the fundamental dilemma of the juvenile court in CHINS cases: it has little actual power to impose sanctions, so must rely largely on procedure and the symbols of power to create a sense of awe and induce compliance. It cannot control children as their parents want, which pleases the children but not their parents. A similar differential enthusiasm of children and parents for mediation was discussed in Chapter 6, with children again saying that they are satisfied with the process more often than their parents.

In order to assess families' opinions of the CHP process and how it compared to the court process, the one-month follow-up included a list of characteristics. Each respondent was asked to indicate to what extent he or she agreed that these characteristics were true of the CHP and of the court in a

closed-ended question. Then, the respondent was asked to assess how important these characteristics were to him or her. A comparison of Tables 87, 88, and 89 indicates that the court and the CHP were not particularly different in how convenient the time was, but that the CHP was more often seen as private, as more comfortable, especially by the children, and as a place where one could tell one's story. Although family members felt that they were kept better informed at the CHP and that the mediators understood better than the judge, these differences are not striking. Family members, and particularly the children, liked the length of time spent in court better than mediation, again reflecting the general feeling that the mediation hearings were too long. Intriguingly, family members were all more likely to say that the judge favored the parents than that the mediators did, suggesting again that the CHP has avoided the parent-centered focus of the court process to some extent. Overall, family members report that mediation was helpful more strongly than that the court was, and the difference appears most marked for the children. The families said that they were satisfied with the results in mediation more often than in court, again with the children showing the greatest difference. Everyone felt more comfortable in mediation, particularly the children.

Family members reported all the features of these processes as important to them (Table 89) although "the chance to tell my story" seems most often important to parents and children.

Privacy seems more important to parents than children as does being kept informed. Surprisingly, a convenient time is relatively unimportant in comparison to the other features mentioned. To feel comfortable is important to all, especially for mothers. Clearly, the informal, private, and more personal features of mediation are generally seen as desirable by family members and preferable to court procedures. In some measures, the differences are not very great, however, nor is the court perceived as negatively as some reform movements have lead us to expect. The consequences may indeed be negative in terms of achieving social justice, but are not necessarily perceived by families who are encountering the court with their own problems.

IMPACT ON THE COURT

One of the major objectives of the initiators and funders of the Children's Hearings Project was to siphon off enough status offender cases to lighten the court's caseload. A related interest was providing a service for CHINS cases that was less expensive than the existing court process. As this chapter indicates, however, these expectations were unfulfilled because the court did not view mediation as a replacement but simply as another service to be offered to families in court. It did not pull these families out of the court. Thus, a comparison of

costs would be irrelevant: mediation and the court ended up doing very different things. Further, any effort to estimate the cost of handling a case in court and in mediation is fraught with difficulties. The study of the Dorchester Urban Court made some efforts to generate comparable figures, but as the authors note, they were difficult to produce (Felstiner and Williams 1982). Few other studies have attempted to estimate the costs of processing cases in court. A major study has described the costs of processing civil cases, but its findings reveal that costs vary a great deal depending on how far the case proceeds in court and suggests that there are some differences between courts (Kakalik and Ross 1983). In any case, such an extensive investigation into court costs was beyond the scope of this study.

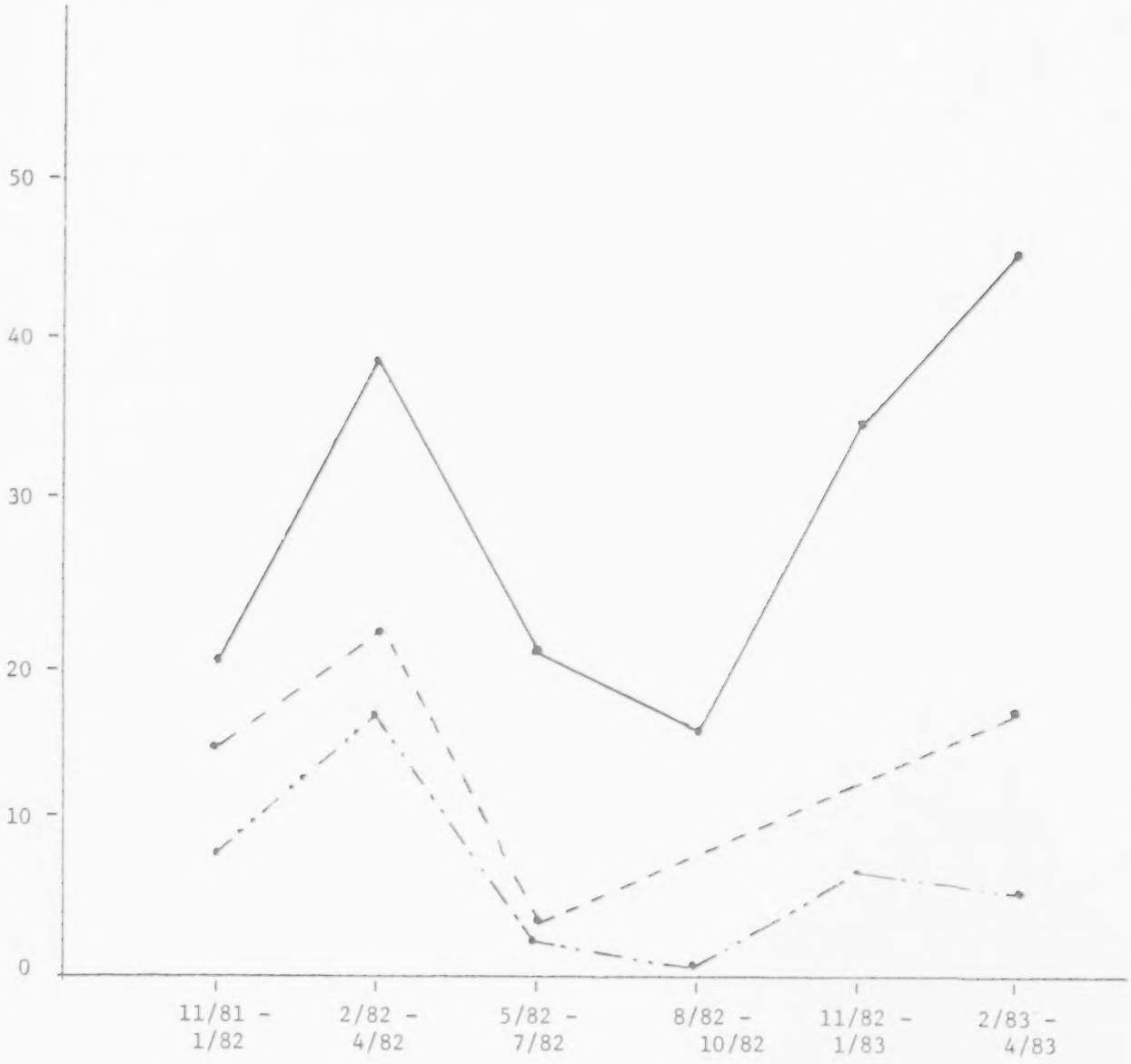
We were interested, however, in how great an impact the CHP had on the caseloads of the Cambridge and Somerville courts. The researcher observed most of the status offender sessions at the two courts between November 1981 and April 1983, a period of 18 months. During that time, she recorded all the CHINS cases which appeared and noted whether or not they were referred to the CHP. This information provides a rough approximation of the flow of CHINS cases through the court for this period, information difficult to extract from court records. Some cases may be missed since the researcher was unable to attend every session, but they are likely to be cases which appeared only once or twice and were dismissed.

Of the 194 cases observed in Cambridge and Somerville during this period, 59% appeared in Cambridge and 41% in Somerville. Fifty-eight percent were girls and 42% were boys. Forty-three percent of these cases were referred to the CHP, suggesting that this program involved a substantial proportion of the courts' cases. Fifty percent of the cases referred during this period were mediated, so that during these 18 months, the CHP mediated 22% of the cases that came through the court. Chart 3 indicates that there is substantial seasonal variation in CHINS cases but that the proportion of referrals remained roughly constant, although the last figures suggest some drop-off in the rate of referrals. Clearly, mediation did not replace the court during this period, but it did provide a valuable service to a substantial proportion of the total caseload.

The courts differed in how readily they referred the cases. Sixty-nine percent of the referrals came from Cambridge and only 31% from Somerville. Furthermore, the Cambridge court referred a higher proportion of it cases (51%) than the Somerville court (24%). Clearly the cooperation and support from court personnel, stronger in Cambridge than in Somerville, were critical in generating substantial caseloads. Cambridge cases were also more likely to be mediated. Fifty-six percent of the Cambridge referrals were mediated in contrast to 38% of the Somerville referrals. This disproportionate follow-through to mediation is reflected in the composition of the cases mediated: 76% of the court-referred cases mediated at the CHP came from Cambridge and 24% from Somerville.

CHART 3

NUMBER OF CHINS CASES IN CAMBRIDGE AND SOMERVILLE COURTS
AND THOSE REFERRED TO THE CHILDREN'S HEARINGS PROJECT



—— # CHINS cases in Cambridge and Somerville Courts

---- # CHINS cases referred to CHP by courts

-..- # Court referrals that were mediated

The 194 cases which appeared in these two courts were largely truant cases: 56% were truants, 27% were stubborns, and 17% were runaways (excluding 14 cases in which the CHINS type was unknown). Thirty-five percent of the truancy cases were referred in comparison to 55% of stubborn cases and 48% of the runaways. Stubborn cases were more likely to come to mediation. Forty-three percent of truant referrals were mediated in comparison to 74% of stubborn referrals and 47% of runaway referrals. This disproportionate follow-through with stubborn cases is reflected in the composition of court-referred cases mediated at the CHP: 36% were truant, 47% were stubborn, and 17% runaway. These statistics indicate that a mediation program can have a significant impact on court caseloads, particularly in courts in which the personnel are enthusiastic and willing to refer cases and particularly with cases involving substantial family conflict in which the complainant is a parent rather than the school or an agency.

In order to determine how court personnel, school officials, and Department of Social Services workers view the mediation process, 12 court officials, judges, and probation officers, 6 DSS workers, and 4 school officials were interviewed about their experiences with referrals to mediation. In response to the question, " How satisfied have you been with the referrals you have made to the CHP?", all of the DSS workers, 11 of 12 of the court personnel, and two of four of the school officials said that they were satisfied. Most of the court respondants said

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they were satisfied, but a few qualified their responses. One said he was satisfied about 80% of the time, but 20% of the time he did not like the solution, which was not close enough to the reality of the situation. Another was satisfied because the program never refused a referral. Another said he referred when he thought it was appropriate, and if that didn't work, not much else would. This respondent saw mediation as a beginning place. One of the school personnel said he was very happy with the sense of seriousness, dedication, and follow-through at the CHP. Another said he was not satisfied because he did not have feedback and follow-up from the CHP and felt that cases got lost in the shuffle.

When the court personnel were asked if they treated cases that reached agreements in mediation differently, only five said yes and seven said no, paralleling earlier observations that reaching agreements does not have much effect on taking the case out of court. In sum, it appears in practice, as in the opinions of these referral sources, that mediation served as an adjunct to, not a replacement for, the court process. The next chapter compares the CHP with the informal juvenile process introduced into Scotland and suggests how it might be different if it came to replace the court altogether.

CHAPTER 10

COMPARISON WITH CHILDREN'S HEARINGS IN SCOTLAND

The Children's Hearings Project began as an effort to replicate the Scottish Children's Hearings System in the United States. Like the Scottish system, implemented in 1971, the CHP used lay volunteers and informal procedures to handle juvenile cases. In both countries, these cases represent a blend of legal and social issues. In both countries, the interest in more informal processes grew out of discontent with the ways the formal, judicial system was handling these cases. In Scotland, one of the goals was to separate the disposition decision from adjudication. The panels did not replace the formal proceeding, which was still held for children who pleaded innocent and for more serious cases. They created a two-tiered system, however, in which the informal alternative was available for children who admitted guilt and for children who were adjudicated guilty. The

panels made decisions on the disposition of cases after the determination of guilt in terms of the best treatment for the child. The proponents in Scotland also hoped to drop the distinctions between different types of juvenile offenses and treat them all the same.

Yet there were inevitably many differences in the relationship between the hearings system and the judicial system in the two countries. In the end, these differences have produced two quite different processes. The contrasts which emerge from a comparison of the two systems reveal the overriding significance of particular ideologies and institutional frameworks in creating a local organizational culture: the informal and formal rules which define what is to be done and specify how it should be done.

Unlike the CHP, the Scottish system replaces the court for cases in which the juvenile admits his or her guilt. For these cases, it has dispositional powers. Nationwide, about 80% of the cases referred to the Reporter (the intake person for the juvenile justice system) involve delinquent offenses and about 20% are truants, children beyond the control of their parents, or children involved in abuse and neglect situations (Martin et.al. 1981:36). Thus the Scottish system handles primarily juvenile delinquents- a critical difference. The Children's Panels are consulted after other, more voluntary processes have failed so that the children have longer and more extensive offense histories than the children at the CHP. The panel members in

Scotland have extensive reports prepared by social workers on the family, including recommendations about what should be done with the child. The panel members operate as outsiders whose responsibility is to oversee the work of professionals and to serve as a check on their exercise of power and discretion. Thus, they serve as a kind of civilian review board which symbolically represents public opinion in the handling of delinquent children. The panel members operate with a dual mandate: to seek the best interest of the child and to protect the public safety. After describing the Scottish Children's Hearings System in detail, this chapter will compare the way it works with the functioning of the CHP, relying on an extensive and thorough research study of the Scottish system by F.M. Martin, Sanford J. Fox, and Kathleen Murray (1981).

SCOTTISH CHILDREN'S HEARINGS SYSTEM

In 1968 by an Act of Parliament, the juvenile justice system in Scotland changed drastically (see generally Martin et.al. 1981). A Children's Hearings System was created, one which relies heavily on social workers and community volunteers and which takes the position that most juvenile offenders need assistance, not punishment. Instead of appearing before judges in court settings, youthful offenders and their families appear

at informal hearings outside the courtroom, where three lay volunteers who have been recruited and trained by professional staff hear cases and help families make decisions on the needs of the youngster involved. Where facts have been disputed or where the events involve public protection, cases (about 10%) continue to be heard in the Sheriff's Court.

Scottish officials, dissatisfied with the court's often counterproductive mandate to establish guilt, impose sanctions, and identify treatment needs, focused their reforms on the dispositional aspects, assuming the position that formal court settings and procedures are inappropriate and ineffective forums for determining what is in the best interest of the child. In addition, by giving citizens considerable authority in the new system, the Scottish officials made clear their belief that ordinary people can and should play a positive role in responding to the needs of troubled youths and families in their own communities. The Children's Hearings System is in fact a tripartite one. Community panels are at the core; a Reporter's office provides intake and staffing for the operations of the panels; and the public Social Work Department prepares assessments and delivers follow-up treatment services agreed upon during a panel hearing.

Advisory committees recruit and screen potential candidates for the panels. They are encouraged to select individuals who represent a cross section of the geographical area covered by the court. During the initial years of the new

system, a professional, middle-class membership dominated the panels and was seen as having unfortunate consequences. In Scotland, as in this country, families in the lower economic levels are proportionately over-represented in the court system. Critics felt that without broader representation which reflects the client population, families will be as alienated from the new system as the old. Corrective efforts to address these issues have been taken over the past several years.

The hearings themselves take place in the Reporter's office. The Reporter, who receives all the referrals, is an appointed civil servant, chiefly responsible for the administration of the system. The offices are clearly separate and distinguished from a court setting. Conscious efforts are taken to create an informal and attractive setting.

The police make the majority of referrals, with remaining ones coming from the court and the social work department. Over 90% of all juvenile matters are now referred to the Reporter's office. Although Scotland replaced formal judicial processing for the majority of cases, the court does maintain jurisdiction over cases involving a serious delinquent where public protection is an issue. Even after a finding is made in court, however, cases are consistently referred to the panels for dispositions. The court will also handle appeals from a panel hearing, although experience shows very few have been requested.

The Reporter has been given broad discretionary powers similar to ones traditionally held by police and judges. The

Reporter has to decide if the evidence is sufficient to prosecute and if the problem is sufficient to get the child and parents involved. One Reporter said that he believes in being non-interventionist and drops the charges in 60% of offense cases.* Thus, cases coming to panel hearings are likely to be the more serious offenses, although almost all care and protection cases have hearings.

The panel's role is not to decide if the charges are true or not, since those cases in which the child does not acknowledge responsibiltiy are sent to the Sheriff who gathers evidence and determines guilt or innocence. The panel members must be sure that the child has agreed to his or her responsibility willingly. The panel's job is to make disposition decisions. After asking parents and child why the child behaved as he did, the panel can decide that family functioning is adequate and discharge the case. It also has the power to make a supervision requirement in the home or to commit the child to residential treatment. This decision has the force of law. The panel does not specify the length of supervision, however, and there can be a review hearing after three months if the child or parents request it. Every decision is automatically reviewed after one year with one or two of the same panel members. All family members can appeal the decision to a professional judge if they are at all dissatisfied.

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* Talk by Alan Finlayson to the Children's Hearings Project, April 7, 1981.

When panels are convened, three members are assigned to a session. One is selected as chairperson in order to guide the process in a coherent and orderly fashion. The Reporter and frequently a social worker sit in on the hearing. The Reporter does not play an active role but is responsible for keeping records and providing other administrative support as needed. It is routine to reconvene a hearing when further background data is needed to negotiate short and long term strategies, and when reviews or dismissals are in order. Panel hearings are typically short, on the average 29 minutes (Martin et.al. 1981:100). Alan Finlayson, the Reporter from Edinburgh, described the initial hearings as averaging 45 minutes and the review hearings as a half hour. Since, by law, the parents have the right to be present at all discussions with the child, there are very rarely private sessions with the children or with the parents.

The planners of the Scottish system knew that certain social, educational and psychological data would be needed to inform and assist the panel in formulating responsible strategies. They also recognized that provisions had to be made for the delivery of services to children and families. The Act of Parliament (also referred to as the Social Work Act) mandated these responsibilities to the Social Work Department, thus guaranteeing these necessary functions and strengthening the credibility of the panel system in general. It would be quite difficult for the panels to be a viable alternative to court processing if these strong links to the Social Work Department had not been established.

Panel members are recruited by advertising in the media and in places of business. Only one in four who applies is selected. They are not necessarily professionals, but are selected in part to cover age ranges and to form a cross-section of social classes and regions. They are trained for five months, meet with the Reporter, visit residential centers, and spend a day with the police and the social workers.

When a family begins the panel process, the social worker meets with them at least four days before the hearing to explain the process. The panel is given social background reports from the social worker, the school, or medical facility if required, and is told the grounds for referral. Panel members are expected to read them. Panel members feel that it is important to listen, to let the family be heard, and to give families the opportunity to talk to each other. The panel obtains its best results when it is able to persuade the family of the wisdom of its disposition decision. However, research on the Scottish panels suggests that panel members do not often ask family members if they agree with their decision. Martin et.al. reported that children were asked if they agreed in 16% of the 301 cases observed and parents in 25% (1981:105). They were asked if they understood the decision about as often. Thirty percent of children were asked and 16% of parents. In 2/3 of the hearings panel members tried to persuade parties of the advantages of the supervision process and in one-third of the cases, the family members were asked what they thought should be done (Martin et.al.1981: 106).

SIMILARITIES BETWEEN THE SCOTTISH CHILDREN'S HEARINGS AND THE CHILDREN'S HEARINGS PROJECT

In an effort to understand how the process changed in its cultural transplantation, this study used some of the same measures and questions as Martin et.al.(1981). This comparison revealed many similarities. Martin et.al. observed 301 panel hearings in Scotland and conducted follow-up interviews with 105 children and 36 parents (1981:54-58). Each hearing was coded according to the issues which were discussed (1981:113-122). Although the differences in coding schemes make direct numerical comparisons difficult, it is possible to compare the major issues raised in descending order of frequency in the two programs. They are strikingly similar. These similarities are particularly interesting since most (78%) of the Scottish cases were delinquency rather than status offender cases (1981:97).

The most common issues in Scotland are school, raised in 91% of the cases, the incidents which lead to the referral (81%), and the parents' reaction to the incident and the adequacy of that reaction (68%) (Martin et.al. 1981:113). In two-thirds of the cases (68%) the hearing covered leisure and spare-time activities such as the nature and influence of the peer group. Over half (58%) discussed the family's contact with and cooperation with social workers, often emphasizing the efforts made by the social work agencies and the family's failure to respond. Half (51%)

discussed the child's behavior at home, focusing on the extent to which the parents are worried and embarrassed by their child's behavior and trying to make the child feel guilty about distressing his parents. About one-third of the cases covered the child's previous legal trouble, one-third family stresses such as unsatisfactory living conditions, sickness, separation, divorce, or deaths in the family, and one-third plans for the future (mostly reminders to the child that if he continues to behave this way he will not be able to get a job). The use of drugs and alcohol by the child is brought up in only 16% of the cases and its use by parents, almost never. Issues rarely raised are financial circumstances, the child's use of pocket money, the child's personality and attitude to family life, and the range of alternative resources available outside the hearing.

A comparison with the issues raised in the CHP, discussed in Chapter 6, indicates that the general complex of problems is quite similar. There is a slightly greater emphasis on family dynamics in the CHP intake and on the precipitating circumstances (the incident) in Scotland, but the range of family and social issues is the same. In both settings, the children perceive themselves as normal children, not as criminals (see Table 90).

In both systems, panel members are reluctant to probe too deeply into emotional or relationship problems or the financial or housing aspects of family problems. The Scottish study finds that when a background report mentions severe family stress, conflict, or violence between parents or parents and children,

these issues are less likely to be raised by the panel (1981:125-127). Family attitudes are stressed if they are positive but are not if they are negative.* According to Martin, et.al., many hearings are characterized by evasion of sensitive problems and a concentration on those which are safe and manageable (1981: 136-7). This explains the predominance of discussions of school: it is a safe and public topic of discussion. CHP mediators similarly zero in on fairly concrete problems of family functioning and school performance and steer away from in depth inquiries into the dynamics of family relationships. The avoidance of intense emotional issues probably reflects a cultural norm against probing into other people's deep-seated emotional problems as well as a concern with terminating the session in a reasonable period of time. In both settings, the third parties attempt to handle the problems by narrowing the issues and sidestepping the intractable and unresolvable ones.

A third similarity between the two processes is that the mediators and the panel members both feel that the responsiblity for the problems lies primarily with the parents, yet they do not communicate this to the parents in the hearings. The panel members in Scotland see the child's offense as the reason he or she is at the hearing but view the child's situation as the

* There are very few private sessions in which such issues could be discussed. The child was asked to leave in only 6 of the 301 cases and the parents in only 2.

central focus of concern. When asked what they thought were the causes of juvenile delinquency, most panel members interviewed gave the parents' shortcomings as their first explanation (Martin et.al. 1981:246-7). Yet, after the hearing, when the interviewer asked, "Do you think the panel thought there was anyone to blame?", none of the parents thought that the panel blamed them, and 78% thought that the hearing had focused on the child's character and behavior (Martin et.al.1981:246). The panel members concentrate on the child in the hearing and do not confront the parents, who feel that they have not been blamed. To some extent the parents' fears that they will be held responsible are allayed by the process. Martin et. al. think this occurs because the panel members realize that the parents react defensively to criticism and are reluctant to risk a confrontation, while the children present little threat. Since the panel has power over the child but not over the parents, it is easier to give the impression that the child or absent friends are responsible (Martin et.al.1981:247).

Most CHP mediators also see parental inadequacy as one of the major explanations for adolescent acting out as discussed in Chapter 8. Parents are slightly more likely to feel responsible for the situation after CHP hearings than they are in Scotland, but they still do not feel as responsible as the mediators think they are. Only six of the parents said that they thought the mediators blamed them and only one of the children thought that the mediators blamed the parents. In the CHP, as in Scotland,

mediators cannot push too hard on parents who are involved voluntarily and who can withdraw if they feel pressured. On the other hand, unlike Scotland, in the CHP the children are also present on a fairly voluntary basis. This difference probably explains why almost none of the children in the CHP felt blamed either. Further, the CHP training puts great emphasis on not blaming family members. It is clearly more difficult to criticize the voluntary participants in a judicial or quasi-judicial process than the involuntary ones. These findings suggest that the more powerful and coercive a third party is, the freer he or she is to pressure and blame participants.

Finally, in both Scotland and the CHP, there appears to be a significant social class difference between the mediators/panel members and the client families (see Chapter 8). In both countries this has occurred despite efforts to avoid it. Mediators and panel members are drawn largely from a more educated, professional class. Such parallels imply the existence of underlying social forces in the two societies. It is characteristic of stratified industrial societies that the deviant behavior of lower status people is handled and therefore controlled by higher status people. To create a dispute resolution system in which the power to regulate behavior is exercised by class equals runs counter to the dominant systems of social control in these societies.

DIFFERENCES BETWEEN THE SCOTTISH SYSTEM AND THE CHP

Despite these similarities, there are several major differences between the mediation process at the CHP and the panel hearings in Scotland. A comparison of the styles of the mediators and the panel members suggests that they are similar in their resort to encouraging and non-directive behavior, but quite different in their use of sarcastic, demanding, shocked, and exhortatious behavior (see Table 91). Each hearing in Scotland was given a single score, while in the CHP data, each segment of a mediation was given a score. The duration of an entire Scottish hearing was about the same as an individual segment of an American mediation, so that this comparison is reasonable.

There are a few interesting similarities. Volunteers in both systems refer to positive aspects of the child and give advice about how to handle the child about as often. On the other hand, the general tone of the third parties appears to be quite different, with the CHP mediators focusing on expressing sympathy and eliciting information while the Scottish panel members are more likely to tell the child to shape up and do better for his or her parents's sake or to avoid legal consequences. This is similar to the discourse of the American juvenile court, described in Chapter 4. The American judges engage in a similar dialogue of threats, exhortations, a focus on the precipitating incident, and lectures about the need to do

better. Both the judges and the Scottish panel members exercise dispositional powers. Both must take account of the needs of public safety as well as the best interests of the child. Thus, both carry a mandate to change the child's behavior to protect society. The CHP mediators, because they are separate from the court proceeding, do not share a similar burden. They are not the only group responsible for the child's school attendance since the judge is also doing this. Further, since they are not handling delinquencies, they do not have to worry about protecting the community. In sum, this comparison suggests that when an informal justice procedure replaces the court, it is under some pressure to replicate its functions. Because the CHP does not replace the court, it does not have the same social control obligations.

A comparison between the family participation and mood in the Scottish hearings and the CHP again suggests some important differences.* The figures in Tables 92 and 93 indicate somewhat greater participation by family members at the CHP and more frequent display of anger and opposition. It is likely that this occurs because the CHP process is somewhat less controlled by the third parties. Family members are equally likely to be silent,

* The measures are somewhat different. The observations in the Scottish system reported in Martin et.al. 1981:142 (Table 92) score family participation for each hearing. The CHP data, reported in Table 93, describes the frequency with which each family member behaved this way in each session of a mediation. Public and private sessions were added together. Thus the figures are not exactly comparable. Each Scottish hearing is measured as having only one style for an entire hearing.

but children are more likely to give simply yes/no answers in Scotland than in the CHP. This difference is probably the result of private sessions with the children in the CHP. Family members are equally likely to be anxious, nervous, and ill at ease in the CHP as in Scotland. It appears that they feel more comfortable in the CHP.

One further difference between the two processes is the role of the precipitating problem. In both systems, the offense brings the case to a hearing but the third parties are primarily concerned about the functioning of the family. The Scottish panel members try to deal with offending behavior, such as stealing, in order to reduce tension and improve family functioning. The CHP mediators try to improve family functioning in order to decrease offending behavior and facilitate handling future problems.

These differences can be explained by the different case types, the different relationship to the court, and the different ideologies of the two programs. Because most of the Scottish cases are delinquencies, the panel members develop ways of doing things that are appropriate for children who are a threat to others and who, in many cases, have a long history of offenses. Most of the CHP children have no such history and the mediators do not develop similar approaches. Second, because of the intimate connection to the court, the Scottish panel members know that they are responsible for what these children do and feel that they have an obligation to prevent further attacks on citizens. Consequently, they must represent the state as well as

the child. They know that there is no further judicial activity beyond them. Finally, there is a difference in the goals of the two programs. The Scottish system was created to provide citizen oversight of the juvenile justice system and to protect the rights of children in trouble, while the CHP was an effort to empower families and to give responsibility for handling these conflicts to the family members rather than to the court. Both systems grew out of a critique of the court, but turned in different directions for solutions to its problems.

This comparison suggests that a mediation program is shaped by its institutional context and its ideological mandate. When an innovative program replaces an existing institution, it is under some pressure to replicate that institution. As it performs similar functions, it becomes more like the system it has pushed aside. Yet there remain novel features: ways in which the new process is distinct from the old. The Scottish comparison suggests the more general proposition that the more a new system replaces rather than supplements an old system, the more likely it is to assume the old system's characteristics, both its strengths and its deficiencies.

CHAPTER 11

CONCLUSIONS

After two years of experience with the Children's Hearings Project, the Massachusetts Department of Social Services concluded that mediation was a valuable service for status offender families and adopted the program state-wide. Programs modelled on the Children's Hearings Project have been established throughout the state and the CHP program director and core mediators have produced mediation manuals and conducted program development and training sessions in several towns and cities across the state. Yet, the founders of the CHP were disappointed that the courts failed to dismiss cases on referral to mediation. One goal of the project was to show that the category of status offenders could be abolished altogether to be replaced by a voluntary, family-centered service separate from the coercive control of the court. Because the courts refused to relinquish

supervision of these cases, the CHP became simply another service recommended by the courts. Mediation remained a piece of the court's traditional role as parent and rehabilitative agent, forestalling the chance to examine the more radical alternative: the complete abolition of the category of status offenders (see Fisher 1979-80:26-67 and Spiro 1984).

Nevertheless, mediation provided a valuable complement to the existing juvenile justice process, one which differed in several significant ways from the court. One of the criticisms of the current status offender category is that it focuses on the misbehavior of the child rather than the problems in the functioning of the entire family, despite the consensus among social scientists that these are family problems (Fisher 1979/80; Spiro 1984; McKelvey 1984). The categories used for CHINS children, for example, focus on the child's actions - stubbornness, running away, or truancy - not the parents' failings. The focus on the child's offending behavior is justified by the notion of rehabilitating the child. Despite statements about family responsibility, the CHINS process typically focuses on changing the child (Fisher 1979-80).

Unlike the court, mediation zeroes in on the internal dynamics of the whole family, not simply on the child. Children in the CHP process did not feel that they were held responsible more often than their parents, and both children and parents thought that agreements were generally fair and contained obligations for both. Children were overall as enthusiastic

about the process as their parents, and were slightly more likely to say that the family situation had improved and that the agreement was working than their parents. One month after the mediation session, only one-fourth of the family members interviewed said that they thought the problem was the child's individual problem rather than a family problem. At intake, parents often raise complaints about the way their child behaves, but neither the agreements nor the comments in follow-up interviews focus on the child's flaws. Children expressed about the same level of support for the process as their parents, and felt that it was fair and that they had signed the agreements for positive reasons about as often as their parents did.

Mediation uses a process which is quite different from that found in court, where children are urged to behave better and are threatened if they do not. The mediation process developed within the Children's Hearings Project encourages structured negotiation about concrete issues of family life in which mutual small agreements serve cumulatively to change patterns of family functioning. For many families, mediation provides an experience in handling conflict which is quite different from the strategies they had been using. Many of these parents had been relying on authoritarian regulation or widespread leniency. The children typically responded by evasion, ignoring demands and requests, and disobeying regulations. The parents turned to the court for help in shoring up their authority over their children. The expectation that parents and children are together to negotiate

the rules of their daily lives is a radical departure from these patterns.

The expectations for mediation must be moderate. Many of these families face serious economic stresses and have other family problems such as alcoholism, violence, neglect, and emotional difficulties. The children have usually already received special treatment at school. Most of the families have already tried some social services, and have turned to the court as a last resort. These characteristics are typical of status offender families (Block and Kreger 1982; McKelvy 1984; Spiro 1984). It is unrealistic to expect that any limited, short-term intervention can have a substantial or long-lasting impact. The mediators, after considerable experience, view mediation as a beginning or as a move toward change, not as a final resolution to these families' problems. Mediation cannot and does not address the underlying financial and emotional problems of these families.

The major benefits of mediation appear to be facilitating communication and altering patterns of handling conflict. The follow-up interviews indicate that some families have changed the way they see one another and the way they deal with conflict. The large majority (84%) of families reached agreements. Of those respondents who reached agreements, almost two-thirds said that the agreement helped the overall family situation and that it was wholly or partially working. Most were satisfied with their experience at the CHP (83%) and thought that the mediation process was a good or partly good idea (90%).

About half the family members interviewed (49%) said that mediation made it easier to talk to each other and somewhat more (59%) found that the process increased understanding between family members. The improved understanding helped them to reach agreements and to deal with conflict in less confrontational ways. The key feature of mediation is that families learn new ways of thinking about and interpreting the behavior of other family members. Instead of seeing rebellious or annoying behavior as the result of individual failures or antagonisms, families come to see others in the family as responding to a variety of situational and social pressures. In other words, the effect of mediation is to see undesirable behavior as a result of situation and context, not individual volition; to reconstruct the conflict as one in which the other individual has less responsibility and deserves less blame. Mediation teaches individuals to externalize the sources of conflict.* The mediators play an important role as links in developing this communication and understanding, passing messages back and forth between the parties. This communication appears to occur most extensively in more complex, reconstituted family situations and with children who are male, younger, and charged with being runaways or stubborn. It occurs less with older children, with girls, and with truant youths.

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* The research study of the PINS mediation program sponsored by the Children's Aid Society in New York City reports a similar change in the way the petitioner sees the cause of the problem. Block and Kreger 1982: 112-129.

The CHP process of focused negotiation about the specific details of family life decreased arguing and fighting at home for 70% of the family members and encouraged the use of discussion for future conflicts. Over half (57%) said they handle conflict differently than before mediation and almost half (47%) say they now handle conflict by talking things over. Mediation teaches families to handle conflict through talking and avoidance rather than confrontation and fighting. Those families who experience new ways of seeing and understanding one another often report that they use talking more often and arguing and fighting less often as a way of dealing with family conflict. During the mediation process, many families have the opportunity to practice the use of negotiation to deal with family conflict, and many are able to continue this process afterwards themselves. Families may be particularly open to learning new patterns when they are in the middle of a crisis situation, as is often the case when the family arrives at the court.

Impact on the Court

The mediation program made a substantial dent in the court caseloads, particularly in the court which accepted mediation most enthusiastically. Almost half (43%) of all status offender cases handled in the two courts studied were referred to mediation, and half of these were mediated. Those cases which

went through mediation were twice as likely to be dismissed as those which were not referred, but they were not dismissed any sooner. Referral sources viewed mediation as most appropriate in families in which there was considerable internal conflict over issues such as social life, chores, curfews, and family interactions. It seemed least appropriate to referral sources for truancy cases in which there were no significant family conflicts. The evidence from the sessions and from the follow-up interviews supports this assessement of the strengths of mediation.

The enthusiastic support of the court appears critical here as in other mediation programs: the more supportive of the program's two courts regularly referred a higher proportion of its cases (51% vs. 24%) and followed through the referral more often so that more of its referred cases actually came to mediation (56% vs. 38%). If mediation is to serve as a genuine support to the court, the court must cooperate enthusiastically with the program.

The Mediation Process: Myth and Practice

Like other social processes, mediation assumes different characteristics in different ideological and institutional settings. The practice of mediation in particular settings is variable, often diverging from its mythology - the claims made

about its potential and about the way it functions. Mediation in practice differs both in what it accomplishes and in what it fails to do. This report describes the way it functions in one context. Here, mediation serves as a mechanism for teaching the use of bargaining and negotiation about specific, concrete aspects of behavior through advice and demonstration. This local mediation practice is influenced by the sponsoring agency's ideological commitment to children's rights and to the decriminalization of status offenders as well as the nature of the problems themselves. Mediation in the CHP has assumed its own distinctive qualities, sometimes different from the mythology of what mediation claims to be.*

First, although one articulated goal of mediation is to return control of the conflict to the people in dispute, the parents, at least, did not want control over the conflict. They had gone to the court in a desperate, last-resort effort to get someone else to help them. They often wanted the court to straighten out their child. These parents were not searching for greater responsibility, but for someone to provide them suggestions, direction, and enhanced authority. The children, on the other hand, were typically in mediation because their parents had taken them to court. Whether or not they had freely chosen mediation, they were coerced into court. About one-fifth went to mediation because their parents made them go.

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* For another view of local mediation practice, see Beer 1985.

Because the parents were trying to increase their control over their children, they hoped that the mediators would be active in making suggestions or constructing solutions. Parents sometimes wanted the mediators to take on a more authoritarian role than the ideology of mediation advocates. The mediators, in interviews, clearly felt ambivalent about how much they should give advice or make suggestions. They seemed to have developed an uneasy compromise in which they made suggestions in terms of hypothetical situations and controlled the process indirectly through shuttle diplomacy. They created a process in which third parties actively pushed families from problems to solutions, from complaints about one another to contextualized views of that behavior, and from arguing and fighting to negotiation. They did so in such a way that the subtle transformation of conflict was not perceived as coercive or experienced as pressure by the family members themselves.

Another feature of the ideology of mediation is that mediators are impartial: they do not make judgments or take sides. This accurately describes mediators' behavior insofar as they do not take sides between parents and children in ways that either recognizes. Yet, the mediators are hardly impartial with regard to values about conflict and family functioning. They clearly view each family situation with a theory of family conflict which advocates parents' setting limits on their children's behavior and jointly negotiating these limits with their children. Families clearly learn that the mediators think

that negotiation is a better way of dealing with conflict than fighting.

According to mediation ideology, disputes should be handled by the disputants' social peers. The rationale for using community volunteers as mediators is the expectation that such people will be like the disputants and share their values and social practices. This study suggests that the client families did not always think that it was important that mediators were community members or volunteers. Furthermore, in the CHP, as in most other mediation programs, the mediators are more educated and of a higher social class than the program clients. Nevertheless, this is a forum in which the clients feel free to define the issues, feel that they have some input into the solutions, and feel personally satisfied and often helped.

In this program, as in many others, mediation provides a forum in which middle-class or professional people teach working-class clients to use negotiation as a form of conflict management and to see misbehavior as a product of social forces rather than individual will, the dominant perspective of human services professionals. The process serves, in effect, to train working-class families in the more verbal, negotiative styles of conflict resolution favored by the middle and upper classes. Whether this transformation of conflict management styles is overall beneficial to working-class families is an important question. For some of the situations working-class individuals confront, handling grievances in a confrontational style is

critical to defending rights against more powerful adversaries. Yet it is also clear that many of the parents adopt very authoritarian roles within families, and that many like the reduced fighting in the home and the idea of negotiating conflict. Children in particular seem pleased by the changes in family conflict. But, the long-range implications of such social changes must be considered. Less powerful members of American society have developed a confrontational style of conflict management because it has proved necessary and often helpful (see, for example, Nader 1980; Merry 1981; Black 1983).

Furthermore, the mediation process is clearly a very powerful one with considerable potential for manipulating ideas and solutions. As practiced at the CHP, the mediators did not change the issues the families were concerned about, but did transform them from complaints to solutions, usually through the process of making suggestions. Parents who come to court are desperate for solutions, so the mediation process can involve more advice-giving than the explicit definition of mediation recognizes. In the hands of careful and idealistic people, the process has the potential to be very helpful. Yet, under different conditions it has the power to be intrusive and controlling.

Can mediation survive institutionalization? This study shows that, in the hands of the idealistic, committed, and socially conscious staff and mediator pool at the CHP, this process provided outcomes that many families found helpful and,

given the limited expectations that one can raise for helping status offender families, was often quite effective. Yet, this study covered the start-up period of the program, a time when staff and mediator enthusiasm ran high and the commitment was strong to child welfare and to showing that the juvenile justice system could be reformed. The case coordinators worked intensely with most families. The program covered a small area and worked closely with two courts. The researcher provided another person who regularly contacted each family. Under these conditions, the CHP provided a process that was considerably more responsive, family directed, and in many ways more helpful than the court.

But these characteristics may change with state-wide institutionalization of the process. The innovative leaders who conceived the project have moved on to other activities or to training and program development. New programs may not share the same concern with children's rights which served to counterbalance the societal preference for the parents' position. Higher caseloads and smaller staffs will decrease the intensive case work with each family. The process of case intake and mediation inevitably becomes routinized, losing some of its distinctive humanistic qualities and coming to replicate the court more closely. The comparison with the Children's Hearings System in Scotland suggests that a fully institutionalized informal process could become more similar to the court. Yet, as with any innovation, the new process, even institutionalized and routinized, will not be exactly like the system it has replaced.

It will combine new features with old practices. A full understanding of mediation must examine not only the idealistic start-up phase of the process, but also the well-established, high-volume phase.

The clear benefits mediation provides, qualified by these questions about its long-term transformation, can inform important policy questions. Should mediation be applied to a wider variety of cases? Should it be adopted more widely by other states' social services departments? Should courts require families to try mediation before they can proceed with the court process, as is currently being done with some kinds of cases in California? As this study indicates, there are considerable advantages to extending the use of mediation, but there are also significant pitfalls to be avoided. We cannot expect mediation to serve as a panacea for deep social ills any more than the court.

Finally, the ideology of mediation argues that it enhances social justice. Despite the more humane, responsive, and participatory nature of the mediation process in comparison to the court, mediation as practiced at the CHP does not have any long-range impact on the distribution of power to control behavior or on the social and economic pressures which lead these families into the court. It moves the management of working-class family problems from the formal legal system to an informal system staffed and managed by people of approximately similar or higher social status. American communities are not

structured to assume the social control functions currently performed by the legal system in a way which would genuinely decentralize control of behavior. Consequently, any reform of the legal system, as long as its operation remains an adjunct of the existing criminal justice system, will produce an alternative system, possibly different in process, organization, and working assumptions, but not different in the use of the power of the state as the ultimate source of social control. Even though the process is quite different from the court, parents and children usually come to it as a service offered by the court. Within this political framework, mediation can provide a service which facilitates the acquisition of negotiation skills by the working-class clients of the judicial system under the direction of educated, idealistic middle-class volunteers.

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APPENDIX

Tables 1 - 93

TABLE 1 - TIME SPANS FOR CHP INVOLVEMENT *

	Mediated	Non-Mediated
Time in CHP		
Range	15 - 350 days	0 - 90 days
Mean	4.1 months	1.1 months
Median	3.7 months	.98 months
Intake to Mediation		
Range	0 - 81 days	
Mean	23 days	N/A
Median	17 days	
First Mediation to Second Mediation		
Range	6 - 48 days	
Mean	24 days	N/A
Median	21.5 days	
Last Mediation to Termination		
Range	5 - 455 days	
Mean	3.5 months	N/A
Median	2.8 months	
CHP Intake to Court Dismissal	(N=21)	(N=19)
Range	49 - 310 days	14 - 479 days
Mean	5.7 months	4.5 months
Median	6.1 months	3.3 months
CHP Termination to Court Dismissal	(N=14)	(N=19)
Range	0 - 266 days	0 - 409 days
Mean	3.2 months	3.5 months
Median	2 months	2.7 months

* The N for both Mediated and Non-Mediated is 50, except where otherwise labelled.

TABLE 2 - CHILD'S SEX

	Mediated (N=51)		Non-Mediated (N=50)		Court (N=50)	
Male	41%	(21)	28%	(14)	42%	(21)
Female	59%	(30)	72%	(36)	58%	(29)

TABLE 3 - CHILD'S AGE

	Mediated (N=51)		Non-Mediated (N=50)		Court (N=50)	
13 & under	25.5%	(13)	20%	(10)	30%	(15)
14 years	31%	(16)	20%	(10)	28%	(14)
15 years	25.5%	(13)	36%	(18)	38%	(19)
16 years +	18%	(9)	24%	(12)	4%	(2)
Mean	14 years		14.5 years		14 years	

TABLE 4 - CHILD'S RACE

	Mediated (N=51)		Non-Mediated (N=50)		Court (N=50)	
White	78%	(40)	74%	(37)	84%	(42)
Black	22%	(11)	22%	(11)	16%	(8)
Hispanic	0		4%	(2)	0	

TABLE 5 - RELIGION

	Mediated (N=50)		Non-Mediated (N=31)		Court (N=16)	
Catholic	70%	(35)	77%	(24)	81%	(13)
Protestant	24%	(12)	13%	(4)	19%	(3)
Other	2%	(1)	3%	(1)	0	
No religion	4%	(2)	7%	(2)	0	

TABLE 6 - MARITAL STATUS

	Mediated (N=51)		Non-Mediated (N=50)		Court (N=49)	
Married	25%	(13)	22%	(11)	33%	(16)
Remarried	10%	(5)	8%	(4)	4%	(2)
Divorced/ Separated/ Single	65%	(33)	70%	(35)	63%	(31)

TABLE 7 - CHILD LIVES WITH ....

	Mediated (N=51)		Non-Mediated (N=50)		Court (N=50)	
Single parent	61%	(31)	70%	(35)	62%	(31)
Both parents	25%	(13)	22%	(11)	32%	(16)
Parent & other	14%	(7)	6%	(3)	4%	(2)
Other	0		2%	(1)	2%	(1)

TABLE 8 - HOW OFTEN FATHER VISITS

FOR MEDIATED SAMPLE ONLY

Never	26%	(13)
Less than once a month	16%	(8)
More than once a month	29%	(15)
Not applicable	29%	(15)

TABLE 9 - PARENTS' RESIDENCE

FOR MEDIATED SAMPLE ONLY

	Mother's		Father's	
With child	92%	(47)	31%	(16)
Boston area	8%	(4)	31%	(16)
Massachusetts	0		12%	(6)
Outside Massachusetts	0		8%	(4)
Whereabouts unknown	0		18%	(9)

TABLE 10 - # MONTHS DIVORCED/SEPARATED

FOR MEDIATED SAMPLE ONLY

Less than 1 yr.	21%	(6)
1 - 2 years	14%	(4)
3 years +	65%	(19)
Not applicable		(22)
Mean	6 years	

TABLE 11 - CHILD'S PLACE IN BIRTH ORDER

FOR MEDIATED SAMPLE ONLY

Only child	8%	(4)
Oldest child	14%	(7)
Middle child	39%	(20)
Youngest child	39%	(20)
Average Number of Siblings = 2		

TABLE 12

PARENT'S AGE
(Mediated sample only)

	Mother's (N=51)	Fathers (N=38)
30 and under	4% (2)	0
31 to 40	80% (41)	55% (21)
41 +	16% (8)	45% (17)
Mean	37 years	40 years
Mode	35 years	37 years
(Missing = 13)		

TABLE 13 - PARENTS' EDUCATION

	Mother			Father		
	Mediated (N=51)	Non-Med. (N=38)	Court (N=39)	Mediated (N=36)	Non-Med. (N=25)	Court (N=33)
<12 yrs.	35% (18)	37% (14)	51% (20)	36% (12)	40% (10)	55% (18)
12 yrs.	45% (23)	31.5% (12)	26% (10)	42% (15)	40% (10)	33% (11)
>12 yrs.	20% (10)	31.5% (12)	23% (9)	22% (8)	20% (5)	12% (4)
Mean	12 yrs.	12 yrs.	11 yrs.	12 yrs.	11 yrs.	10 yrs.

TABLE 14 - INCOME

EXCLUDES COURT SAMPLE*

	Mediated (N=46)	Non-Mediated (N=35)
$10K & under	35% (16)	60% (21)
$11 - 15K	28% (13)	23% (8)
$16 - 20K	15% (7)	11% (4)
$21K +	22% (10)	6% (2)
Mean	$15.5K	$10K

*Court sample was excluded because the number of missing cases for this variable would have rendered the data meaningless.

TABLE 15 - SOURCE OF INCOME

FOR MEDIATED SAMPLE ONLY

Employment	51%	(26)
Public assistance	17.5%	(9)
Child support	6%	(3)
Employment & child support	8%	(4)
Employment & public assistance	17.5%	(9)

TABLE 16 - PARENTS' EMPLOYMENT

	Mother			Father		
	Mediated	Non-Med.	Court	Mediated	Non-Med.	Court
	(N=51)	(N=42)	(N=44)	(N=29)	(N=12)	(N=16)
Prof.	12% (6)	14% (6)	4.5% (2)	14% (4)	17% (2)	0
Technical/ Sales	4% (2)	2% (1)	4.5% (2)	17% (5)	8% (1)	0
Clerical	29% (15)	10% (4)	18% (8)	4% (1)	0%	6% (1)
Services	18% (9)	14% (6)	21% (9)	17% (5)	17% (2)	6% (1)
Skilled	2% (1)	5% (2)	0%	17% (5)	17% (2)	31% (5)
Semi-Skilled	2% (1)	2% (1)	2% (1)	7% (2)	0%	25% (4)
Unskilled	0%	0%	2% (1)	10% (3)	25% (3)	19% (3)
Unemployed	2% (1)	5% (2)	0%	10% (3)	8% (1)	13% (2)
Not in Labor Force	31% (16)	48% (20)	48% (21)	4% (1)	8% (1)	0%

TABLE 17

CAMBRIDGE/SOMERVILLE MEDIATION CASES
COMPARED WITH CITY CHARACTERISTICS FROM 1980 CENSUS

	Cambridge/Somerville	Occupations of Cambridge/Somerville Mediated Families	
	Total Work Force	% of Mothers	% of Fathers
Executive and Professional	32%	5%	7%
Technical	6%	0%	7%
Clerical and Sales	27%	38%	7%
Service	14%	19%	33%
Skilled Craft, Repair, Producers	8%	0%	27%
Semi and Unskilled, Manual (Operators, Fabricators, Laborers)	12%	3%	20%

TABLE 18

EDUCATION OF CAMBRIDGE/SOMERVILLE RESIDENTS *

	Somerville	Cambridge	Total
Up to 3 years Of High School	34%	19%	26%
High School Graduate	36%	22%	28%
Some College	15%	21%	18%
College Graduate	8%	14%	12%
Advanced Education	8%	24%	17%

*1980 Census data on persons 18 years or over

TABLE 19 - CHILD'S GRADE

	Mediated	Non- Mediated	Court
	(N=51)	(N=46)	(N=49)
8th & less	29% (15)	28% (13)	47% (23)
9th grade	26% (13)	37% (17)	33% (16)
10th grade	31% (16)	28% (13)	18% (9)
11th grade	8% (4)	7% (3)	2% (1)
12th grade	6% (3)	0	0
Mean	9th grade	9th grade	8th grade

TABLE 20 - PRESENT SCHOOL

FOR MEDIATED SAMPLE

High School	64.5%	(33)
Junior High School	12%	(6)
Grammar School	23.5%	(12)

TABLE 21 - CHINS STATUS

FOR MEDIATED SAMPLE

No Court Involvement	16%	(9)
Up to Application stage only	25%	(13)
Court hearing	57%	(29)

TABLE 22 - REFERRAL SOURCE TO CHP

	Mediated (N=51)		Non-Mediated (N=50)	
Court	76.5%	(39)	72%	(36)
Not court	23.5%	(12)	28%	(14)

TABLE 23 - WHO FILED CHINS?

	Mediated (N=37)		Non-Mediated (N=37)		Court (N=50)	
Parent	73%	(27)	51%	(19)	42%	(21)
School	24%	(9)	46%	(17)	56%	(28)
Police	3%	(1)	3%	(1)	2%	(1)

TABLE 24 - TYPE OF CHINS

	Mediated (N=51)		Non-Mediated (N=50)		Court (N=50)	
Stubborn	43%	(22)	28%	(14)	26%	(13)
Runaway	33%	(17)	24%	(12)	16%	(8)
Truant	24%	(12)	46%	(23)	58%	(29)
Not a CHINS	0		2%	(1)	0	

TABLE 25 - WHERE REFERRED FROM BY CHINS TYPE

FOR MEDIATED SAMPLE*

	Referral Source			
	Court		Not Court	
CHINS Type				
Stubborn	36%	(14)	67%	(8)
Runaway	36%	(14)	25%	(3)
Truant	28%	(11)	8%	(1)
Total	76.5%	(39)	23.5%	(12)

* While the data are informative, the reader should be aware that the Chi Square was not significant.

TABLE 26 - WAS PETITION ISSUED?

	Mediated (N=37)		Non-Mediated (N=37)		Court (N=50)	
Yes	35%	(13)	49%	(18)	56%	(28)
No	65%	(24)	51%	(19)	44%	(22)

TABLE 27 - ADJUDICATED CHINS?

	Mediated (N=37)		Non-Mediated (N=38)		Court (N=50)	
Yes	16%	(6)	8%	(3)	2%	(1)
No	84%	(31)	92%	(35)	98%	(49)

TABLE 28 - CHINS DISMISSED?

	Mediated (N=37)		Non-Mediated (N=37)		Court (N=50)	
Yes	59.5%	(22)	49%	(18)	26%	(13)
No	40.5%	(15)	51%	(19)	74%	(37)

TABLE 29 - # TIMES CASE IN COURT

	Mediated (N=38)	Non-Mediated (N=37)	Court (N=50)
Range	0 - 15	1 - 20	1 - 16
Mean	5 times	6 times	6 times

TABLE 30 - # TIMES FAMILY HAD TO APPEAR IN COURT

	Mediated (N=38)	Non-Mediated (N=37)	Court (N=50)
Range	0 - 9	0 - 15	1 - 13
Mean	4 times	4 times	5 times

TABLE 31 - # CHINS SIBLINGS

	Mediated (N=39)		Non-Mediated (N=39)		Court (N=50)	
0	69%	(27)	74.5%	(29)	80%	(40)
1-4	31%	(12)	25.5%	(10)	20%	(10)

TABLE 32 - PERCENT CASES WHERE ISSUES WERE BROUGHT UP IN COURT FOR EACH GROUP IN ORDER OF FREQUENCY*

Mediated (N=31)		Non-Mediated (N=38)		Court (N=50)	
Truancy	71%	Truancy	58%	Truancy	78%
Curfew	26%	Running	32%	Running	26%
Child's Social Life	23%	Child's Social Life	32%	Child's Drug/ Alcohol Use	16%
Family Dynamic	23%	Curfew	18%		
Control	16%				
Running	16%				

* This table should be used descriptively. Caution must be used in making comparisons. Data for mediated sample were extracted from the actual proceedings of preliminary court hearings. Data for court and non-mediated groups were collected from probation reports. Non-mediated cases that were not court-involved were excluded. Differences between mediated sample and other two groups may be due to data collection methods and not actual differences in issues. If over 15% of the cases had a specific issue, it was considered frequent.

TABLE 33 - WHY NOT HAVE MEDIATION SESSION?

NON-MEDIATED SAMPLE*

Reason	% Responses	N
Child placed	3%	(2)
Family uninterested	26%	(16)
Not completed because of referral source	11.5%	(7)
Situation resolved	11.5%	(7)
Inappropriate - school problems	15%	(9)
Problem too severe	13%	(8)
Family moved	7%	(4)
Child ran, unstable	13%	(8)

* These reasons were supplied by the case coordinator who was in charge of the case. If a family gave a reason for not choosing mediation, the case coordinator would report that as the reason. For some cases, there were two reasons.

TABLE 34 - NUMBER OF MEDIATION PARTICIPANTS

	%	(N=51)
Two participants	45%	(23)
Three participants	41%	(21)
Four participants	6%	(3)
Five participants	8%	(4)

TABLE 35 - WHO WERE PARTICIPANTS?

	%	(N=51)
Child & mother	43%	(22)
Child, mother & father	23.5%	(12)
Child, sibling & parent(s)	12%	(6)
Other combination*	21.5%	(11)

*Includes professionals, other relatives and family friends in addition to family members.

TABLE 36 - NUMBER OF MEDIATORS

	%	(N=51)
One mediator	12%	(6)
Two mediators	69%	(35)
Three mediators	20%	(10)

TABLE 37 - PERCENT MEDIATIONS WHERE THIS POINT WAS MADE DURING MEDIATORS' INTRODUCTIONS

Introductory Point	%	(N=51)
Mediators take notes during mediation	98%	(49)
Explanation of public session	98%	(49)
Explanation of private sessions	98%	(49)
Mediators are trained	94%	(47)
What is said is confidential	94%	(47)
Family members may take notes	92%	(46)
Mediators do not judge	92%	(46)
All notes will be destroyed at end	86%	(43)
Mediators are volunteers from community	78%	(39)
Mediation is voluntary for family	76%	(38)
Mediators will facilitate agreement	74%	(37)
Mediation is an alternative to court	70%	(35)
Participants come to own resolution	70%	(35)
Individual issues can be kept confidential from other participants	68%	(34)
Explanation of caucuses	68%	(34)
Mediators took oath of confidentiality	64%	(32)
Participants may smoke	64%	(32)
Mediators will help family explore and identify issues	62%	(31)
Mediation will last as long as needed	48%	(24)
Explanation of case coordinator follow-up	6%	(3)

TABLE 38 - NUMBER OF PRIVATE SESSIONS WITH...

	Child	Parent(s)	Sibling	Other*
One	19.5% (10)	27% (14)	0	2% (1)
Two	55% (28)	45% (23)	6% (3)	10% (5)
Three	21.5% (11)	14% (7)	6% (3)	0
Four or more	2% (1)	12% (6)	0	0
N/A or zero	2% (1)	2% (1)	88% (45)	88% (45)
Mean # of sessions	2	2	2	Less than 2

*Includes professionals, other relatives or friends of family.

TABLE 39 - NUMBER OF PUBLIC SESSIONS AND CAUCUSES

	Public	Caucuses
Two	86% (44)	4% (2)
Three	12% (6)	14% (7)
Four	2% (1)	31% (16)
Five	0	25.5% (13)
Six or more	0	25.5% (13)
Mean # of sessions	2	5

TABLE 40 - LENGTH OF MEDIATION SESSIONS

(In minutes unless otherwise noted)

	Mean	Median	Range
Initial public session	22	20	7 - 58
Private sessions - child	23	21	5 - 52
Private sessions - parent	32	30	10 - 71
Subsequent public session	15	13	2 - 54
Caucuses	10	9	4 - 18
Whole mediation session (In hours)	3.3	3.4	1.3 - 5.1

TABLE 41

WHY HAS RELATIONSHIP IMPROVED?

(One-Month Follow-Up)

	Child (N=35)	Mother (N=33)	Father (N=10)	All (N=78)
Mediation Alone	23%	18%	30%	22%
Case Coordinator (C.C.)	3%	0	0	1%
Outside Circumstances	14%	9%	0	10%
Med. and C.C.	29%	21%	0	22%
Med. and Outside Cir.	6%	21%	20%	14%
C.C. and Outside Cir.	3%	0	0	1%
Med., C.C. and Outside Circumstances	17%	27%	50%	26%
Don't Know	4%	3%	0	4%

(Later Follow-Up)

	Child (N=13)	Mother (N=12)	Father (N=5)	All (N=30)
Mediation Alone	15%	17%	20%	17%
Case Coordinator(C.C.)	8%	0	20%	7%
Outside Circumstances	23%	17%	40%	23%
Med. and C.C.	0	25%	0	10%
Med. and Outside Cir.	8%	25%	0	13%
C.C. and Outside Cir	0	0	0	0
Med., C.C., and Outside Circumstances	23%	8%	20%	17%
Don't Know	23%	8%	0	13%

TABLE 42 - NUMBER OF CHP CONTACTS WITH FAMILIES

	Mediated (N=51)			Non-Mediated (N=29)*		
Contacts initiated by:	Mean	Median	Range	Mean	Median	Range
Family	1	.4	0 - 7	.3	.2	0 - 2
Case Coordinator	20	20	1 - 48	7	6	1 - 22
Type of Contact:						
Telephone calls with child	6	5	0 - 13	1	.4	0 - 9
Telephone calls with parents	10	10	0 - 30	2	1.5	0 - 10
Meetings with child	2	1	0 - 7	1.5	1	0 - 3
Meetings with parent	1.5	1	0 - 5	1	1	0 - 4
Outside contacts	7	5.5	0 - 24	4	2	0 - 14

*Information on CHP contact was missing for a large number of Non-Mediated cases due to brief contact with some families.

The following tables describe the demographic backgrounds of the mediators who actually participated in the 51 mediations of this study. This means that some mediators are counted more than once and that other mediators in the program are not counted at all. These tables are here to give the reader a flavor for the actual mediators who were involved and is not meant as a description of of all CHP mediators.

TABLE 43 - MEDIATORS' SEX

	%	(N=106)
Male	36%	(38)
Female	64%	(68)

TABLE 44 - MEDIATORS' RACE

	%	(N=106)
White	95%	(101)
Black	5%	(5)

TABLE 45 - MEDIATORS' AGE

	%	(N=75)
30 years or younger	35%	(26)
31 - 40 years	19%	(14)
41 years or older	47%	(35)

TABLE 46 - MEDIATORS' EDUCATION

	%	(N=102)
Less than 12 years	0	
12 years	1%	(1)
Some college up to graduate training	99%	(101)

TABLE 47 - MEDIATORS' WORK

	%	(N=106)
Executive	3%	(3)
Professional	76%	(81)
Sales	1%	(1)
Clerical	4%	(4)
Other services	7%	(7)
Not in labor force	9%	(10)

TABLE 48 - MEDIATORS' EXPERIENCE/PROFESSIONAL BACKGROUND

	%	(N=106)
Human services	55%	(58)
Mediation	14%	(15)
Neither	31%	(33)

TABLE 49 - MEDIATORS' MARITAL STATUS

	%	(N=106)
Married	27%	(29)
Separated	2%	(2)
Divorced	14%	(15)
Single	37%	(39)
Remarried	20%	(21)

TABLE 50 - NUMBER OF MEDIATIONS CONDUCTED UP TO THIS PRESENT ONE

	%	(N=106)
None	17%	(18)
One to five mediations	47%	(50)
Six to ten mediations	26%	(28)
Eleven or more	9%	(10)

TABLE 51 - WERE THE MEDIATORS FOR OR AGAINST YOU?*

	Child		Mother		Father		All	
	%	N	%	N	%	N	%	N
For	18	(9)	4	(2)	0	(0)	10	(11)
Against	4	(2)	0	(0)	6	(1)	3	(3)
Neutral	43	(21)	52	(25)	71	(12)	51	(58)
For All of Us	31	(15)	38	(18)	24	(4)	33	(37)
Don't Know	4	(2)	6	(3)	0	(0)	4	(5)

*N=114

TABLE 52 - MEDIATORS' STYLES*

	Public Sessions (N=106)	Private - Child (N=104)	Private - Parent (N=104)	Total Sessions (N=314)
Encouraging, non-directive, evokes participation				
Never	9%	3%	4%	5%
Sometimes	85%	80%	76%	80%
Often	7%	17%	20%	15%
Sympathetic, understanding, listens carefully				
Never	3%	0	1%	1%
Sometimes	85%	69%	71%	75%
Often	12%	31%	28%	24%
Refers to positive aspects of child				
Never	91%	73%	68%	77%
Sometimes	9%	26%	27%	21%
Often	0	1%	5%	2%
Refers to positive aspects of parents				
Never	96%	93%	84%	91%
Sometimes	4%	7%	13%	8%
Often	0	0	4%	1%
Interrogating, demanding				
Never	100%	98%	98%	99%
Sometimes	0	2%	1%	1%
Often	0	0	1%	0
Sarcastic, contemptuous				
Never	98%	100%	99%	99%
Sometimes	2%	0	1%	1%
Often	0	0	0	0
Suggests child guilty of misdeeds				
Never	100%	98%	100%	99%
Sometimes	0	2%	0	1%
Often	0	0	0	0

*Combines responses of all mediators present.

TABLE 52 - MEDIATORS' STYLES Continued.

	Public Sessions	Private - Child	Private - Parent	Total Sessions
Suggests parent guilty of misdeeds				
Never	100%	100%	99%	100%
Sometimes	0	0	1%	0
Often	0	0	0	0
Shocked, indignant, tries to elicit guilt, shame, remorse				
Never	100%	100%	100%	100%
Sometimes	0	0	0	0
Often	0	0	0	0
Exhorts to shape up, threatens with legal consequences				
Never	100%	99%	100%	100%
Sometimes	0	1%	0	0
Often	0	0	0	0
Interrupts, blocks response				
Never	93%	95%	94%	94%
Sometimes	7%	5%	5%	5%
Often	1%	0	1%	1%
Advises parent on how to handle child				
Never	95%	97%	76%	90%
Sometimes	4%	3%	18%	8%
Often	1%	0	6%	2%
Advises child on how to handle parents				
Never	96%	80%	100%	92%
Sometimes	4%	19%	0	8%
Often	0	1%	0	0
Speaks clearly				
Never	10%	7%	10%	9%
Sometimes	22%	38%	42%	34%
Often	68%	56%	48%	57%
Uses positive body language				
Never	3%	3%	8%	5%
Sometimes	17%	29%	33%	26%
Often	80%	68%	60%	69%

TABLE 52 - MEDIATORS' STYLES Continued..

	Public Sessions	Private - Child	Private - Parent	Total Sessions
Uses negative body language				
Never	98%	100%	100%	99%
Sometimes	2%	0	0	1%
Often	0	0	0	0
Explores options				
Never	82%	40%	27%	50%
Sometimes	18%	43%	54%	38%
Often	0	16%	19%	12%
Reassures parties				
Never	57%	65%	66%	63%
Sometimes	35%	29%	26%	30%
Often	9%	6%	8%	7%
Elicits information				
Never	9%	6%	6%	7%
Sometimes	89%	85%	76%	83%
Often	2%	10%	18%	10%
Clarifies, defines				
Never	7%	3%	4%	5%
Sometimes	34%	35%	40%	36%
Often	59%	63%	56%	59%
Attempts to reconcile parties				
Never	74%	65%	60%	66%
Sometimes	26%	30%	29%	28%
Often	0	5%	12%	5%
Counseling, preachy				
Never	93%	76%	86%	85%
Sometimes	7%	23%	11%	13%
Often	0	1%	4%	2%
Silent, quiet				
Never	85%	84%	85%	84%
Sometimes	13%	16%	14%	14%
Often	2%	0	2%	1%

TABLE 53 - FAMILY PARTICIPATION AND MOOD

BY TYPE OF MEDIATION SESSION

	Child in Public (N=50)	Child in Private (N=50)	Parents in Public (N=71)	Parents in Private (N=70)
Silent, refuses to answer questions				
Never	84%	100%	97%	100%
Sometimes	14%	0	3%	0
Often	2%	0	0	0
Answers "yes/no/don't know" only				
Never	86%	94%	96%	100%
Sometimes	12%	6%	1%	0
Often	2%	0	3%	0
Answers questions				
Never	4%	2%	0	0
Sometimes	30%	24%	23%	44%
Often	66%	74%	78%	56%
Asks questions				
Never	84%	70%	70%	81%
Sometimes	14%	30%	27%	16%
Often	2%	0	3%	3%
Makes suggestions				
Never	82%	34%	89%	50%
Sometimes	16%	58%	10%	36%
Often	2%	8%	1%	14%
Elaborates, explains				
Never	52%	10%	13%	1%
Sometimes	40%	58%	62%	63%
Often	8%	32%	25%	36%
Disagrees, interrupts, expresses opposition, speaks out				
Never	52%	52%	65%	46%
Sometimes	40%	42%	32%	39%
Often	8%	6%	3%	16%

TABLE 53 - FAMILY PARTICIPATION AND MOOD Continued..

	Child in Public	Child in Private	Parents in Public	Parents in Private
Interested				
Never	30%	18%	9%	6%
Sometimes	38%	38%	42%	54%
Often	32%	44%	49%	40%
Cooperative, agreeable				
Never	16%	6%	17%	14%
Sometimes	60%	40%	58%	47%
Often	24%	54%	25%	39%
Defensive				
Never	80%	94%	94%	90%
Sometimes	16%	6%	6%	6%
Often	4%	0	0	4%
Rigid				
Never	100%	96%	90%	87%
Sometimes	0	4%	10%	10%
Often	0	0	0	3%
Sad, hurt, unhappy				
Never	80%	84%	90%	89%
Sometimes	20%	12%	10%	11%
Often	0	4%	0	0
Happy, laughing, joking				
Never	50%	46%	57%	56%
Sometimes	42%	30%	39%	39%
Often	8%	24%	4%	5%
Bored, getting bored				
Never	96%	92%	100%	100%
Sometimes	4%	4%	0	0
Often	0	4%	0	0

TABLE 53 - FAMILY PARTICIPATION AND MOOD Continued..

	Child in Public	Child in Private	Parents in Public	Parents in Private
Cries, shows tears				
Never	96%	88%	99%	91%
Sometimes	4%	12%	1%	9%
Often	0	0	0	0
Shows anger				
Never	84%	94%	85%	89%
Sometimes	12%	6%	16%	7%
Often	4%	0	0	4%
Expresses opposition verbally				
Never	60%	88%	80%	87%
Sometimes	36%	8%	17%	10%
Often	4%	4%	3%	3%
Comfortable, at ease				
Never	38%	20%	23%	13%
Sometimes	42%	22%	42%	43%
Often	20%	58%	35%	44%
Attentive, serious				
Never	34%	18%	6%	9%
Sometimes	36%	36%	49%	49%
Often	30%	46%	45%	43%
Passive, withdrawn, blank				
Never	60%	98%	97%	99%
Sometimes	34%	0	1%	1%
Often	6%	2%	1%	0
Anxious, nervous, ill at ease				
Never	90%	90%	87%	93%
Sometimes	10%	10%	13%	3%
Often	0	0	0	4%
Disinterested				
Never	98%	98%	100%	100%
Sometimes	0	0	0	0
Often	2%	2%	0	0

TABLE 54 - COMPARISON OF WHO BROUGHT UP ISSUES IN PUBLIC VS. PRIVATE SESSIONS

	Public Session		Private Sessions*	
Child	17%	(42)	29%	(104)
Parent	67%	(168)	38%	(136)
Both child & parent	9%	(22)	4%	(15)
Mediator	3%	(7)	23%	(82)
Combination of mediator & child or parent	1%	(3)	2%	(8)
Other**	4%	(9)	5%	(17)

*Issues brought up in private sessions were new issues not already brought up in the initial public session.

** Other includes issues brought up by professionals, siblings, and relatives and friends of family.

TABLE 55 - IS THE AGREEMENT WORKING?

	Child (N=44)		Mother (N=43)		Father (N=16)		All
	%	N	%	N	%	N	%
Yes	57	(25)	35	(15)	50	(8)	47
No	30	(13)	33	(14)	31	(5)	31
Partially	14	(6)	33	(14)	13	(2)	21
Don't Know	0	(0)	0	(0)	6	(1)	1

TABLE 56 - AGREEMENTS: LATER FOLLOW-UP INTERVIEW*

% YES

	Child N=16		Mother N=19		Father N=5	
	%	N	%	N	%	N
Did the agreement help the overall family situation	75	(12)	68	(13)	80	(4)
Do you still follow it?	44	(7)	47	(9)	20	(1)
Were there any specific points that particularly helped the situation?	19	(3)	26	(5)	20	(1)

* These numbers are much smaller than in the one-month follow-up interviews and should be viewed only as suggestive.

TABLE 57 - ISSUES BROUGHT UP AT INTAKE AND BY WHOM*

Issues	% Cases	N
Curfews	61%	(31)
Truancy	45%	(23)
Choice of friends	45%	(23)
Chores	41%	(21)
Where child goes	37%	(19)
Sibling problems	29%	(15)
Child's bad attitude	27.5%	(14)
Parent's Reactions	27.5%	(14)
Punishment	25.5%	(13)
Child's alcohol/drug use	25.5%	(13)
Child's boy/girlfriend	22%	(11)
Counseling	22%	(11)
Child's mouth, foul language	20%	(10)

*Issues were included if at least 20% of the cases mentioned them at the initial CHP intake.

WHO BROUGHT UP ISSUES AT INTAKE?

	% Issues	N
Child	35%	(155)
Parent	42%	(183)
Both child and parent	19%	(83)
Other*	4%	(19)

*Includes professionals and siblings.

TABLE 58 - AGREEMENT POINTS*

	% Cases	N
Curfew	58%	(26)
Chores	56%	(26)
Second mediation	44%	(20)
Checking in when late	44%	(20)
Truancy	40%	(18)
Counseling	27%	(12)
After school activities	27%	(12)
Child's privacy	22%	(10)
Spending time together	22%	(10)
Change school program	22%	(10)
Friends' visiting	20%	(9)

*Agreement points were reported if at least 20% of the agreements had them. Points are in descending order of frequency.

TABLE 59 - REACHING AGREEMENTS

Who came up with the agreement points in your contract?	Child (N=44)		Mother (N=43)		Father (N=15)		From Observations (N=45 cases)	
	%	N	%	N	%	N	%	N*
Mediators	11	(5)	21	(9)	13	(2)	47	(145)
Child	14	(6)	19	(8)	20	(3)	19	(58)
Parents	32	(14)	12	(5)	13	(2)	30	(93)
Child and parents	23	(10)	28	(12)	47	(7)	0	(0)
Other combination	20	(9)	21	(9)	7	(1)	4	(14)

* Describes proportion of all issues raised in the 45 agreements, total of 310 issues.

TABLE 60 - DOES FAMILY NEED COUNSELING?*

	Child (N=49)		Parent (N=65)		Total (N=114)	
Yes	22%	(11)	65%	(42)	46%	(53)
No	74%	(36)	35%	(23)	52%	(59)
Don't know	4%	(2)	0		2%	(2)

TABLE 61 - WHO NEEDS THE COUNSELING?*

	Child (N=11)		Parent (N=42)		Total (N=53)	
Child	36.5%	(4)	60%	(25)	55%	(29)
Parent	18%	(2)	19%	(8)	4%	(2)
Family	36.5%	(4)	14%	(6)	34%	(18)
Don't know	9%	(1)	7%	(3)	7%	(4)

TABLE 62 - % FAMILIES USING SOCIAL SERVICES

BEFORE AND AFTER MEDIATION

None before, none after	31%	(16)	49% had no new social services
Social services before, none after	10%	(5)	
Same social services before & after	8%	(4)	
None before, some after	27%	(14)	51% had new social services after
Social services before, different ones after	4%	(2)	
Social services before, more after	20%	(10)	

* All opinion questions asked one month after mediation to mediated sample only.

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TABLE 63 - # SOCIAL SERVICE AGENCIES USED...

FOR MEDIATED SAMPLE

	In past	At intake	After mediation
	(N=5)	(N=51)	(N=51)
0	57% (29)	27.5% (14)	41% (21)
1	27% (14)	37% (19)	41% (21)
2	14% (7)	27.5% (14)	6% (3)
3	2% (1)	8% (4)	2% (1)
4	0	0	10% (5)
Mean	.6 agencies	1 agency	1.6 agencies

TABLE 64

PERCEIVED RELATIONSHIP TO COURT

Do You Think The Judge Can Enforce Your Mediation Agreement?

	Child (N=49)	Mother (N=48)	Father (N=17)	All (N=114)
Yes	51% (25)	35% (17)	35% (6)	42% (48)
No	45% (22)	50% (24)	65% (11)	50% (57)
Don't Know	4% (2)	15% (7)	0% (0)	8% (9)

Did The Judge Mention The Agreement In Court? (Later Follow-Up)

	Child (N=10)	Mother (N=10)	All (N=20)
Yes	0% (0)	10% (1)	5% (1)
No	70% (7)	80% (8)	75% (15)
Not Applicable	30%(3)	10% (1)	20% (4)

TABLE 65 - ISSUES BROUGHT UP AT INTAKE

Issues	% of Cases	N
Curfews	61	(31)
School Attendance	45	(23)
Child's Choice of Friends	45	(23)
Chores	41	(21)
Where Child Goes/Hangs Out	37	(19)
Fighting With and Picking on Siblings/Sibling Rivalry	29	(15)
Parents' Reactions to Child (Nagging, Lecturing, Yelling)	28	(14)
Disrespectful/Bad Attitude	28	(14)
Drinking/Drugs - Child	26	(13)
Punishment/Grounding	26	(13)
Going to Counseling	22	(11)
Child's Choice of Boy/Girlfriend and Dating	22	(11)
Mouth/Swearing/Verbal Abuse	20	(10)
Quality of School Programs/Alternative School/New Classes/CORE	18	(9)
Child Is Irresponsible/Untrustworthy/Uncooperative	18	(9)
Child Does Not Obey Rules	18	(9)
Child's Privacy and Intrusion Into That Privacy	18	(9)
General Family Problems/General Arguing and Fighting in Family	18	(9)
Child Wants Independence/Freedom	16	(8)
Child's Extracurricular Activities/What Child Does After School and Before Supper	16	(8)
Lying	16	(8)
Checking In at Home/Calling When Late	14	(7)
Work on Communication	14	(7)
Child Working/Not Working	14	(7)
Other Parental Fault	14	(7)
School Behavior/Performance	12	(6)
Money	12	(6)
Child is Family Scapegoat	12	(6)
Telephone Privileges	12	(6)
Other Family Disagreements and Problems Not Mentioned	12	(6)

TABLE 65 - ISSUES BROUGHT UP AT INTAKE
(continued)

Issues	% of Cases	N
Homework	12	(6)
Stealing	10	(5)
Getting An Allowance	10	(5)
Clothing, Child's Possessions	10	(5)
Having Friends in House/Visiting	10	(5)
Role of Step-Parent/Separated Parent	10	(5)
TV/Stereo/Radio Privileges	10	(5)
Where Child Will Live	10	(5)
Family Spending Time Together	8	(4)
Running Away	8	(4)
Excessive Violence by Child	8	(4)
Child's Temper	8	(4)
Transportation	8	(4)
Bedtime/Waking Time/Sleeping	6	(3)
Divorce and Other Marital Problems	6	(3)
Smoking Cigarettes	6	(3)
Transportation to School	4	(2)
Parents Not Listening/Ignoring/Not Caring	4	(2)
Excessive Violence by Parent/Abuse and Neglect/ Mother's/Father's Boy/Girlfriend Involved	4	(2)
Visitation (To Siblings, Father, Home, Other)	4	(2)
Child's Self Image	4	(2)
Court/DSS Issues (Includes DSS Custody)	4	(2)
Child Has Other Needs/Desires	4	(2)
Church/Religion	4	(2)
Drinking/Drugs - Parent	2	(1)
Sex/Pregnancy/Birth Control	2	(1)
Parent's Privacy and Intrusion Into That Privacy	2	(1)
Babysitting Siblings	2	(1)
Health Problems in Family	2	(1)
Child Has Emotional Problems	2	(1)
Jealousy	2	(1)
Other		

TABLE 66 - COMPARISON OF ISSUES AT COURT, INTAKE AND IN AGREEMENT

(For Mediated cases that were court-involved)

	Issue	Court (N=31)	Intake (N=40)	Agreement (N=34)
Issues Prevalent in All Three	Truancy	71%	53%	50%
	Curfew	26%	68%	62%
Issues Prevalent at Intake and in Agreement	School program	3%	20%	21%
	Counseling	0	23%	24%
	Chores	13%	35%	44%
	Child's Privacy	0	20%	27%
Issues Prevalent at Intake Only	Lying	0	20%	3%
	Choice of friends	16%	55%	12%
	Where child goes	7%	43%	18%
	Child's alcohol/ drug use	10%	30%	6%
	Child's bad attitude	3%	23%	18%
	Parents' reactions	0	28%	12%
	Punishment	0	23%	12%
	Sibling problems	2%	28%	0
Issues Prevalent in Agreements Only	Checking in when late	0	18%	53%
	Friends visiting	0	10%	24%
	After school activities	0	15%	27%
	Telephone use	0	10%	21%

TABLE 67 - AGREEMENT: HOLDING AT THE END OF THE MONITORING PERIOD*

	(N=45)	
	%	N
Yes	40	(18)
No	40	(18)
Partially	20	(9)

* This information is derived from program records. It records an agreement as holding if it has been more or less followed.

TABLE 68 - AGREEMENT POINTS BROKEN*

	Issue	Mother		Child	
		%	(N)	%	(N)
Mother Reports Broken More Often Than Child	+Truancy	50	(9)	22	(4)
	Child Drinking/ Drugs	50	(1)	0	
	Role of Step-parent	100	(1)	0	
	Bedtime	50	(2)	0	
	Stealing	100	(1)	100	(1)
	+Chores	40	(10)	28	(7)
	+Curfew	35	(9)	35	(9)
	Mouth/Swearing	29	(2)	0	
	Communication	29	(2)	0	
	Sibling Problem	33	(1)	0	
	Telephone	25	(2)	13	(1)
	Child Working	25	(1)	0	
	Friends Visit	22	(2)	22	(2)
	+Spending Time together	20	(2)	10	(1)
	Bad Attitude	17	(1)	0	
	+Extracurricular activity	17	( )	25	(3)
	Parents Reactions	17	(1)	0	
	+Child's Privacy	20	(2)	20	(2)
	TV-Stereo	20	(1)	0	
	+Checking in	15	(3)	5	(1)
	Where child goes	13	(1)	13	(1)

TABLE 69 - FREQUENCY OF ISSUES BROUGHT UP IN INITIAL PUBLIC AND PRIVATE SESSIONS*

	Issue	Public (N=51)	Private (N=50)
Issues Most Often Brought Up in Initial Public Session	Truancy	53%	10%
	Running away	31%	4%
	Child's bad attitude	23.5%	4%
	Child's alcohol/drug use	20%	8%
Issues Most Often Brought Up in Private Sessions	Counseling	8%	42%
	Spending time together	4%	38%
	Bedtime	2%	26%
	Choice of friends	18%	22%
	Where child goes	14%	22%
	Other family problems	0	22%
	Parents' reactions	10%	20%
	Child has other needs	10%	20%
Issues Brought Up Often In Both Public and Private Sessions	Change school program	20%	28%
	Curfew	25.5%	34%
	Chores	27.5%	36%

*Issues were considered to be frequently brought up if they appeared in at least 20% of the cases.

TABLE 70

WHEN YOU CAME TO MEDIATION WHOSE PROBLEM DID YOU THINK THIS WAS?

(One-Month Follow-Up)

	Child (N=49)	Mother (N=48)	Father (N=17)
Child's	29% (14)	38% (18)	35% (6)
Family's	49% (24)	27% (13)	24% (4)
Both	18% (9)	31% (15)	41% (7)
Parent's	4% (2)	0% (0)	0% (0)
Other	0% (0)	4% (2)	0% (0)

(Later Follow-Up)

	(N=18)	(N=20)	(N=7)
Child's	11% (2)	25% (5)	0% (0)
Family's	39% (7)	45% (9)	29% (2)
Both	33% (6)	25% (5)	43% (3)
Parents'	11% (2)	0% (0)	0% (0)
Other	0% (0)	5% (1)	0% (0)
Don't Know	6% (1)	0% (1)	29% (2)

TABLE 71

WHAT DID YOU THINK WAS THE PROBLEM WHEN YOU CAME TO THE CHILDREN'S HEARINGS PROJECT

	Child (N=49)	Mother (N=48)	Father (N=17)	All (N=114)
No Problem	2%	0%	0%	1%
Communication	10%	21%	6%	14%
School	10%	15%	6%	11%
Fighting	16%	2%	6%	9%
Drinking/Drugs	2%	2%	0%	2%
Child Wants Freedom	2%	0%	0%	1%
Child Doesn't Obey	2%	6%	18%	6%
Child Does Specific Things	8%	19%	12%	13%
Child's General Attitude	4%	21%	35%	16%
Parents Do Specific Things	14%	0%	6%	7%
Parents' General Attitude	16%	0%	0%	7%
Don't Know	6%	0%	0%	6%
Mixture	4%	13%	12%	9%
Other	2%	2%	0%	2%

TABLE 72

DID YOU LEARN ANYTHING NEW ABOUT HOW YOUR CHILD FELT ABOUT THE SITUATION?

	Child (N=49)	Mother (N=47)	Father (N=17)
Yes	35 % (17)	45 % (21)	47 % (8)
No	25 % (12)	19 % (9)	35 % (6)
Knew It Before	41 % (20)	36 % (17)	18 % (3)

DO YOU BETTER UNDERSTAND YOUR CHILD'S/PARENTS' POINT OF VIEW SINCE MEDIATION?

(One-Month Follow-Up)

	Child (N=49)	Mother (N=47)	Father (N=17)
Yes	69 % (34)	45 % (21)	71 % (12)
No	10 % (5)	15 % (7)	24 % (4)
Understood It Before	18 % (9)	40 % (19)	6 % (1)
Don't Know	2 % (1)	0 % (0)	0 % (0)

(Later Follow-Up)

	(N=18)	(N=19)	(N=6)
Yes	67 % (12)	79 % (15)	83 % (5)
No	22 % (4)	16 % (3)	17 % (1)
Understood It Before	0 % (0)	5 % (1)	0 % (0)
Don't Know	11 % (2)	0 % (0)	0 % (0)

TABLE 73

HAS YOUR EXPERIENCE IN MEDIATION MADE IT EASIER TO TALK TO (CHILD OR PARENT)?

	Child (N=48)	Mother (N=48)	Father (N=17)	All (N=113)
Yes	46%	46%	65%	49%
No	38%	25%	29%	31%
Always Could Talk	15%	29%	6%	20%
Don't Know	2%	0	0	1%

TABLE 74

CHANGES IN CONFLICT BEHAVIOR

Is There Less Arguing and Fighting?
(One Month Follow-Up)

	Child (N=48)	Mother (N=48)	Father (N=17)	All (N=113)
Yes, Less	75%	63%	77%	70%
Same	10%	21%	12%	15%
More	10%	8%	12%	10%
Never Argued	4%	6%	0%	4%
Don't Know	0%	2%	0%	1%

(Later Follow-Up)

	(N=18)	(N=20)	(N=6)	(N=44)
Yes, Less	67%	65%	50%	64%
Same	22%	10%	50%	21%
More	0%	15%	0%	7%
Never Argued	6%	10%	0%	7%
Don't Know	6%	0%	0%	2%

TABLE 75

FAMILY CONFLICT BEHAVIOR

(Later Follow-Up)

How Are Things Going Lately With Your (Parent or Child)?

	Child (N=17)	Mother (N=19)	Father (N=6)	All (N=42)
Good	82%	37%	50%	57%
Bad	0	21%	17%	12%
Mixed	18%	42%	33%	31%

Do You Feel the Family Situation Is More in Control Now Than It Was When You First Came to The Children's Hearings Project?

	Child (N=18)	Mother (N=20)	Father (N=6)	All (N=44)
Yes	83%	70%	67%	75%
No	6%	15%	33%	14%
Never Out of Control	6%	5%	0	5%
Don't Know	6%	10%	0	7%

TABLE 76

CHANGE IN REPORTED FAMILY CONFLICT BEHAVIOR - BEFORE AND AFTER MEDIATION

Mothers (N=46)

	How Handle Conflict Before	How Now	% Change
Punish	11% (5)	2% (1)	-9%
Argue, Angry, Violent	39% (18)	15% (7)	-25%
Talk	24% (11)	57% (26)	+33%
Ignore	7% (3)	11% (5)	+4%
Leave Room	9% (4)	13% (6)	+4%
Don't Know	11% (5)	2% (1)	-9%

Fathers (N=17)

	Before	Now	% Change
Punish	29% (5)	0 % (0)	-29%
Argue, Angry, Violent	47% (8)	18% (3)	-29%
Talk	6% (1)	65% (11)	+59%
Ignore	0% (0)	6% (1)	+6
Leave Room	0% (0)	6% (1)	+6%
Don't Know	18% (3)	6% (1)	-12%

TABLE 76 (Continued)

Children (N=45)

	Before	Now	% Change
Punish	0% (0)	0% (0)	0
Argue, Angry, Violent	36% (16)	9% (4)	-27%
Talk	9% (4)	29% (13)	+20%
Ignore	20% (9)	24% (11)	+4%
Leave Room	27% (12)	29% (13)	+2%
Don't Know	9% (4)	9% (4)	0

Statistical Significance

t-test significance - two tail probability

	Mother	Father	Child
Talk	.000	.001	.010
Argue	.003	.019	.000
Punish	.023	.019	1.00 (no cases)

TABLE 77

CHANGES IN CONFLICT MANAGEMENT

	CHILD N=44	MOTHER N= 46	FATHER N=17
Unchanged	52% (23)	43% (20)	18% (3)
Changed	48% (21)	57% (26)	82% (14)
Changed To:			
Punish	(0)	(1)	(0)
Talk	(10)	(13)	(8)
Refer to Agreement	(0)	(2)	(2)
Ignore	(5)	(2)	(1)
Avoid	(5)	(4)	(1)
Violence	(0)	(1)	(0)
Argue	(1)	(2)	(0)
Get Angry	(0)	(1)	(2)
Unchanged:			
Punish	(0)	(0)	(0)
Talk	(3)	(10)	(1)
Refer to Agreement	(0)	(1)	(0)
Ignore	(6)	(3)	(0)
Avoid	(8)	(2)	(0)
Violence	(0)	(0)	(0)
Argue	(3)	(3)	(1)
Angry	(0)	(0)	(0)
Don't Know	(3)	(1)	(1)

TABLE 78

CHANGES IN CONFLICT BEHAVIOR - BY SEX OF CHILD*

Number Of Parents Of Boys
Who Reported Changes
(N=21)

	Mothers	Fathers	Sons
Punish	-4	-2	0
Argue	-5	-3	-2
Talk	+9	+3	+4
Refer To Agreement	+1	+1	0
Ignore	0	0	no change
Avoid	-1	+1	no change
Get Angry	no change	0	0
Violence	no change	0	-3

Number Of Parents Of Girls
Who Reported Changes
(N=30)

	Mothers	Fathers	Daughters
Punish	no change	-3	0
Argue	-6	-2	-7
Talk	+4	+4	+5
Refer to Agreement	+1	+1	0
Ignore	+2	+1	+2
Avoid	+3	0	+1
Get Angry	0	+2	0
Violence	0	-2	0

* Plus or minus indicates increase or decrease in number reporting use of each strategy.

TABLE 79

FAMILY CONFLICT

WHAT DO YOU DO NOW? (BY CHINS)

CHILD (N=45)

	Stubborn	Runaway	Truant
Argue, Punish, Fight	14%	7%	0
Talk	24%	29%	40%
Ignore	24%	36%	10%
Avoid	33%	21%	30%
Don't Know	5%	7%	20%

PARENTS (N=63)

	Stubborn	Runaway	Truant
Argue, Punish, Fight	13%	19%	0
Talk	63%	48%	67%
Ignore	0	24%	8%
Avoid	20%	10%	17%
Don't Know	3%	0	8%

TABLE 79 (Cont.)

FAMILY CONFLICT

WHAT DO YOU DO NOW? (BY CHINS)

ALL (N=108)

	Stubborn	Runaway	Truant
Argue, Punish, Fight	14%	14%	0
Talk	47%	40%	55%
Ignore	10%	29%	9%
Avoid	26%	14%	23%
Don't Know	4%	3%	14%

TABLE 80 - MEAN LENGTH OF TIME IN COURT BY CHINS TYPE

	Mediated	Non-Mediated	Court
Arraignment to dismissal	(N=22)	(N=19)	(N=16)
Total mean	5.95 months	4.8 months	6 months
Stubborn	5 months	7.1 months	7.1 months
Runaway	7.5 months	3.4 months	2.1 months
Truant	4.6 months	4.7 months	6.4 months
Arraignment to last day in court	(N=16)	(N=19)	(N=37)
Total mean	8.6 months	8.8 months	8.1 months
Stubborn	9.9 months	12.3 months	10.9 months
Runaway	8 months	6.8 months	3.9 months
Truant	8.1 months	8.7 months	7.4 months

TABLE 81 - NEW SOCIAL SERVICES AFTER INTERVENTION?

	Mediated			Non-Mediated			Court
	Referred by CHP (N=51)	Referred by Court (N=49)	Total Referred (N=51)	Referred by CHP (N=50)	Referred by Court (N=48)	Total Referred (N=50	(N=50)
Yes	39% (20)	22% (11)	51% (26)	24% (12)	37% (18)	50% (25)	58% (29)
No	61% (31)	78% (38)	49% (25)	76% (38)	63% (31)	50% (25)	42% (21)

TABLE 82 - TYPE OF SOCIAL SERVICES REFERRED TO BY REFERRAL SOURCE (% OF REFERRALS)

	Mediated			Non-Mediated			Court
	Referred by CHP (N=24)	Referred by Court (N=15)	Total Referred (N=39)	Referred by CHP (N=12)	Referred by Court (N=24)	Total Referred (N=36)	(N=46)
Alcohol	8% (2)	6.5% (1)	8% (3)	0	0	0	0
Mental Health	42% (10)	6.5% (1)	28% (11)	33% (4)	25% (6)	28% (10)	17% (8)
Court Clinic	4% (1)	60% (9)	25.5%(10)	0	37.5%(9)	25% (9)	39% (18)
Educ.	12.5%(3)	0	8% (3)	25% (3)	0	8% (3)	4.5% (2)
DSS/OFC	12.5%(3)	27% (4)	18% (7)	42% (5)	25% (6)	31% (11)	33% (15)
Other	21% (5)	0	12.5%(5)	0	12.5%(3)	8% (3)	6.5% (3)

TABLE 83 - DSS INVOLVEMENT IN COURT

	Mediated (N=49)		Non-Mediated (N=49)		Court (N=50)	
Given custody	26%	(13)	21%	(11)	22%	(11)
Voluntary services	6%	(3)	26%	(13)	26%	(13)
None or N/A	68%	(33)	53%	(26)	52%	(26)

TABLE 84 - HOW DO YOU THINK MEDIATION COMPARES TO THE COURT PROCESS?

(6-month follow up)

	Child (N=13)		Mother (N=13)		Father (N=4)		All (N=30)	
	%	N	%	N	%	N	%	N
Better	31	(4)	46	(6)	75	(3)	43	(13)
Same	8	(1)	23	(3)	0	(0)	13	(4)
Worse	0	(0)	0	(0)	25	(1)	3	(1)
No comparison made	62	(8)	31	(4)	0	(0)	40	(12)

TABLE 85 - WAS THE COURT/MEDIATION HELPFUL?

(LATER FOLLOW-UP)

		Child		Mother		Father		All	
		%	N	%	N	%	N	%	N
		(N=13)		(N=13)		(N=4)		(N=30)	
Was the court helpful?	YES	62	(8)	69	(9)	75	(3)	67	(20)
		(N=13)		(N=14)		(N=4)		(N=31)	
Was mediation* helpful?	YES	69	(9)	93	(13)	75	(3)	81	(25)

*excludes don't know responses

TABLE 86

FAMILIES' ATTITUDES TOWARD COURT AND MEDIATION

Were You Satisfied With What Happened In Court?
(One-Month Follow-Up)

	Child (N=32)	Mother (N=31)	Father (N=10)	All (N=73)
Yes	63% (20)	48% (15)	80% (8)	59% (43)
No	31% (10)	48% (15)	20% (2)	37% (27)
Mixed	3% (1)	3% (1)	0% (0)	3% (2)
Don't Know	3% (1)	0% (0)	0% (0)	1% (1)

(Later Follow-Up)

	Child (N=13)	Mother (N=11)	Father (N=3)	All (N=27)
Yes	69% (9)	36% (4)	33% (1)	52% (14)
No	23% (3)	55% (6)	33% (1)	37% (2)
Don't Know	8% (1)	9% (1)	33% (1)	11% (3)

Did You Understand What Went On In Court?
(One-month follow-Up)

	Child (N=32)	Mother (N=31)	Father (N=10)	All (N=73)
Yes	88% (28)	84% (26)	100%(10)	88% (64)
No	13% (4)	16% (5)	0% (0)	12% (9)

TABLE 87

FAMILIES' OPINIONS OF THE CHP PROCESS

	CHILD (N=49)	MOTHER (N=48)	FATHER (N=17)	ALL (N=114)
Time Convenient				
Stongly Agree	14% (7)	19% (9)	12% (2)	16% (18)
Agree	67% (33)	71% (34)	71% (12)	69% (79)
Disagree	14% (7)	10% (5)	18% (3)	13% (15)
Strongly Disagree	2% (1)	0% (0)	0% (0)	1% (1)
Don't Know	2% (1)	0% (0)	0% (0)	1% (1)
Hearing Private				
Strongly Agree	41% (20)	29% (14)	35% (6)	35% (40)
Agree	55% (27)	71% (34)	65% (11)	63% (72)
Disagree	4% (2)	0% (0)	0% (0)	2% (2)
Strongly Disagree	0% (0)	0% (0)	0% (0)	0% (0)
Felt Comfortable and Relaxed				
Strongly Agree	10% (5)	17% (8)	24% (4)	15% (17)
Agree	74% (36)	75% (36)	65% (11)	73% (83)
Disagree	14% (7)	8% (4)	6% (1)	11% (12)
Strongly Disagree	2% (1)	0% (0)	0% (0)	1% (1)
Don't Know	0% (0)	0% (0)	6% (1)	1% (1)
Length of Time Right				
Strongly Agree	4% (2)	6% (3)	24% (4)	8% (9)
Agree	49% (24)	60% (29)	41% (7)	53% (60)
Disagree	31% (15)	31% (15)	35% (6)	32% (36)
Strongly Disagree	16% (8)	2% (1)	0% (0)	8% (9)
Kept Informed				
Strongly Agree	18% (9)	15% (7)	18% (3)	17% (19)
Agree	78% (38)	73% (35)	71% (12)	75% (85)
Disagree	2% (1)	10% (5)	6% (1)	6% (7)
Strongly Disagree	2% (1)	2% (1)	0% (0)	2% (2)
Don't Know	0% (0)	0% (0)	6% (1)	1% (1)

TABLE 87 (Continued)

	CHILD N=49	MOTHER N=48	FATHER N=17	ALL N=114
Mediators Understood				
Strongly Agree	25% (12)	6% (3)	12% (2)	15% (17)
Agree	63% (31)	77% (37)	71% (12)	70% (80)
Disagree	8% (4)	8% (4)	12% (2)	9% (10)
Strongly Disagree	0% (0)	2% (1)	0% (0)	1% (1)
Don't Know	4% (2)	6% (3)	6% (1)	5% (6)
Chance to Tell Story				
Strongly Agree	33% (16)	91% (9)	12% (2)	24% (27)
Agree	63% (31)	79% (38)	88% (15)	74% (84)
Disagree	4% (2)	2% (1)	0% (0)	3% (3)
Strongly Disagree	0% (0)	0% (0)	0% (0)	0% (0)
Satisfied With Results				
Strongly Agree	16% (8)	13% (6)	18% (3)	15% (17)
Agree	57% (28)	63% (30)	59% (10)	60% (68)
Disagree	22% (11)	19% (9)	24% (4)	21% (24)
Strongly Disagree	4% (2)	4% (2)	0% (0)	4% (4)
Don't Know	0% (0)	2% (1)	0% (0)	1% (1)
Mediators Favored Parents				
Strongly Agree	2% (1)	0% (0)	0% (0)	1% (1)
Agree	12% (6)	4% (2)	12% (2)	9% (10)
Disagree	61% (30)	88% (42)	65% (11)	73% (83)
Strongly Disagree	22% (11)	6% (3)	18% (3)	15% (17)
Don't Know	2% (1)	2% (1)	6% (1)	3% (3)
CHP Helpful				
Strongly Agree	22% (11)	10% (5)	18% (3)	17% (19)
Agree	57% (28)	63% (30)	71% (12)	61% (70)
Disagree	14% (7)	21% (10)	6% (1)	16% (18)
Strongly Disagree	4% (2)	4% (2)	6% (1)	4% (5)
Don't Know	2% (1)	2% (1)	0% (0)	2% (2)

TABLE 88

FAMILIES' OPINIONS OF THE COURT PROCESS

	CHILD N=32	MOTHER N=31	FATHER N=10	ALL N=73
Time Convenient				
Strongly Agree	6% (2)	3% (1)	10% (1)	6% (4)
Agree	66% (21)	74% (23)	70% (17)	70% (51)
Disagree	22% (7)	13% (4)	20% (2)	18% (13)
Strongly Disagree	6% (2)	10% (3)	0% (0)	7% (5)
Hearing Private				
Strongly Agree	3% (1)	7% (2)	10% (1)	6% (4)
Agree	69% (22)	65% (20)	70% (7)	67% (49)
Disagree	16% (5)	23% (7)	20% (2)	19% (14)
Strongly Disagree	13% (4)	7% (2)	0% (0)	8% (6)
Felt Comfortable and Relaxed				
Strongly Agree	6% (2)	0% (0)	0% (0)	3% (2)
Agree	38% (12)	39% (12)	70% (7)	43% (31)
Disagree	41% (13)	52% (16)	30% (3)	44% (32)
Strongly Disagree	16% (5)	10% (3)	0% (0)	11% (8)
Length of Time Right				
Strongly Agree	6% (2)	0% (0)	0% (0)	3% (2)
Agree	75% (24)	74% (23)	100% (10)	78% (57)
Disagree	16% (5)	26% (8)	0% (0)	18% (13)
Strongly Disagree	3% (1)	0% (0)	0% (0)	1% (1)
Kept Informed				
Strongly Agree	6% (2)	0% (0)	10% (1)	4% (3)
Agree	66% (21)	42% (13)	60% (6)	55% (40)
Disagree	28% (9)	45% (14)	20% (2)	34% (25)
Strongly Disagree	0% (0)	13% (4)	10% (1)	7% (5)

TABLE 88 (Continued)

	CHILD N=32	MOTHER N=31	FATHER N=10	ALL N=73
Judge Understood				
Strongly Agree	13% (4)	10% (3)	10% (1)	11% (8)
Agree	69% (22)	68% (21)	80% (8)	70% (51)
Disagree	13% (4)	13% (4)	0% (0)	11% (8)
Strongly Disagree	3% (1)	7% (2)	0% (0)	4% (3)
Don't Know	3% (1)	3% (1)	10% (1)	4% (3)
Chance To Tell Story				
Strongly Agree	3% (1)	0% (0)	0% (0)	1% (1)
Agree	34% (11)	58% (18)	60% (6)	48% (35)
Disagree	59% (19)	26% (8)	30% (3)	41% (30)
Strongly Disagree	3% (1)	13% (4)	10% (1)	8% (6)
Don't Know	0% (0)	3% (1)	0% (0)	1% (1)
Satisfied With Results				
Strongly Agree	13% (4)	0% (0)	0% (0)	6% (4)
Agree	53% (17)	52% (16)	80% (8)	56% (41)
Disagree	28% (9)	36% (11)	10% (1)	29% (21)
Strongly Disagree	6% (2)	10% (3)	0% (0)	7% (5)
Don't Know	0% (0)	3% (1)	10% (1)	3% (2)
Judge Favored Parents				
Strongly Agree	3% (1)	0% (0)	0% (0)	1% (1)
Agree	31% (10)	16% (5)	20% (2)	23% (17)
Disagree	56% (18)	68% (21)	60% (6)	62% (45)
Strongly Disagree	3% (1)	7% (2)	0% (0)	4% (3)
Don't Know	6% (2)	10% (3)	20% (2)	10% (7)
Court Helpful				
Strongly Agree	0% (0)	3% (1)	0% (0)	1% (1)
Agree	59% (19)	61% (19)	90% (9)	64% (47)
Disagree	38% (12)	23% (7)	10% (1)	27% (20)
Strongly Disagree	3% (1)	10% (3)	0% (0)	6% (4)
Don't Know	0% (0)	3% (1)	0% (0)	1% (1)

TABLE 89

HOW IMPORTANT ARE THESE ASPECTS OF THE CHP?

	CHILD (N=49)	MOTHER (N=48)	FATHER (N=17)	ALL (N=73)
Convenient Time				
Very	16% (8)	48% (23)	35% (6)	33% (37)
Somewhat	41% (40)	42% (20)	29% (5)	40% (45)
A Little	18% (9)	10% (5)	18% (3)	15% (17)
Not at all	25% (12)	0% (0)	18% (3)	13% (15)
Hearing Private				
Very	39% (19)	60% (29)	65% (11)	52% (59)
Somewhat	31% (15)	29% (14)	18% (3)	28% (32)
A Little	18% (9)	4% (2)	6% (1)	11% (12)
Not At All	12% (6)	6% (3)	12% (2)	10% (11)
Kept Informed				
Very	33% (16)	52% (25)	59% (10)	45% (51)
Somewhat	45% (22)	44% (21)	29% (5)	42% (48)
A Little	18% (9)	4% (2)	6% (1)	11% (12)
Not At All	2% (1)	0% (0)	6% (1)	2% (2)
Don't Know	2% (1)	0% (0)	0% (0)	1% (1)
Felt Comfortable				
Very	27% (13)	60% (29)	41% (7)	43% (49)
Somewhat	45% (22)	35% (17)	47% (8)	41% (47)
A Little	14% (7)	2% (1)	6% (1)	8% (9)
Not At All	12% (6)	0% (0)	0% (0)	5% (6)
Don't Know	2% (1)	2% (1)	6% (1)	3% (3)
Chance To Tell Story				
Very	61% (30)	58% (28)	65% (11)	61% (69)
Somewhat	33% (16)	38% (18)	35% (6)	35% (40)
A Little	4% (2)	2% (1)	0% (0)	3% (3)
Not At All	2% (1)	2% (1)	0% (0)	2% (2)

TABLE 90

COMPARISON WITH SCOTLAND
Self-Perception

Do you think of yourself/your child as:
(Percent yes)

CHILDREN'S HEARINGS PROJECT

	Child (N=49)	Mother (N=47)	Father (N=17)	All (N=113)
Criminal	6%	6%	6%	6%
In Need of Help?	33%	81%	77%	59%
Delinquent	2%	19%	24%	12%
Like other kids Their Age?	86%	60%	61%	71%
Unlucky	22%	11%	35%	20%
Picked On	37%	15%	18%	25%

SCOTLAND *

	Child (N=105)
Criminal	26%
In Need of Help?	22%
Like Other Kids Their Age?	80%
Unlucky	61%
Picked On?	38%

* From Martin et. al. 1981: 212 Questions only asked of children

TABLE 91 - FREQUENCY OF VARIOUS MEDIATOR VS. PANEL MEMBER STYLES

	Mediator (N=314)	Panel Member + (N=301)
Sympathetic, understanding, listens carefully	99%	48%
Encouraging, non-directive, evokes participation	95%	91%
Uses positive body language	95%	- *
Clarifies, defines	95%	-
Elicits information	93%	-
Speaks clearly	91%	-
Explores options	50%	-
Reassures parties	37%	-
Attempts to reconcile parties	33%	-
Makes reference to positive aspects of child	23%	23%
Quiet	16%	-
Counseling, preachy	15%	-
Advises parent on how to handle child	10%	14%
Refers to positive aspects of parent(s)	9%	-
Advises child on how to handle parent(s)	8%	-
Interrupts, blocks response	6%	-
Sarcastic, contemptuous, suggests child guilty of misdeeds	2%	22%
Interrogating, demanding	1%	44%
Uses negative body language	1%	-
Suggests parent guilty of misdeeds	0	-
Shocked, indignant, tries to elicit guilt	0	36%
Exhorts to shape up, threatens with legal consequences	0	35%

+Data from Martin, et al. 1981: 128 for these measures.
*No comparable data was available for Scottish panel members.

TABLE 92*

FAMILY PARTICIPATION AND MOOD
IN SCOTLAND
LEVEL OF PARTICIPATION BY CHILD AND PARENTS

	CHILD (N=295)	MOTHER (N=254)	FATHER (N=173)
Is Silent Throughout	1%	6%	4%
Says "Yes", "No" or "Don't Know" only	21%	3%	3%
Answers Questions More Fully	50%	41%	32%
Asks Questions, Speaks Out	28%	50%	61%

MOOD OF CHILD AND PARENTS

	CHILD (N=295)	MOTHER (N=154)	FATHER (N=173)
Cries	5%	3%	0
Shows Anger	3%	2%	2%
Expresses Opposition	2%	1%	2%
Combinations of Above	2%	2%	0
Comfortable, At Ease	22%	19%	23%
Attentive, Serious	40%	54%	62%
Passive, Withdrawn, Blank	14%	4%	8%
Anxious, Nervous, Ill At Ease	12%	14%	4%

*
From Martin et. al. 1981:142

TABLE 93 - TIME SPANS FOR COURT INVOLVEMENT

	Mediated	Non-Mediated	Court
Court application to arraignment	(N=37)	(N=30)	(N=42)
Range	0 - 85 days	0 - 140 days	0 - 374 days
Mean	19.5 days	14 days	26 days
Median	14 days	7.5 days	10 days
Arraignment to petition issued	(N=13)	(N=18)	(N=28)
Range	0 - 182 days	0 - 472 days	0 - 403 days
Mean	44 days	2 months	2.7 months
Median	40 days	9 days	2 days
Arraignment to dismissal	(N=22)	(N=19)	(N=16)
Range	56 - 462 days	0 - 479 days	49 - 469 days
Mean	5.95 months	4.8 months	6 months
Median	5.6 months	2.8 months	5.2 months
Arraignment to last day in court*	(N=16)	(N=19)	(N=37)
Range	70 - 463 days	33 - 548 days	0 - 980 days
Mean	8.6 months	8.8 months	8.1 months
Median	7.6 months	6.8 months	7.1 months

* This is to give an estimate of how long cases that have not yet been dismissed have been in court. This last day in court refers to their last court day prior to the day research collection ended.